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federal register

Monday
July 2, 1979

Highlights

38437 **Sale of Defense Articles and Services to Barbados** Presidential determination

38738 **Libraries** List of Libraries Carrying FR and CFR (Part II of this issue)

38456 **Aged, Blind and Disabled** HEW/SSA provide increased protection of supplemental security income application dates; effective 7-2-79

38609 **Motor Carrier General Increase** ICC proposes to consider new standards for measuring the revenue needs of regular route motor common carriers of general freight

38606 **Aid To Families With Dependent Children** HEW/SSA proposes to provide that a child is considered deprived of parental support or care by reason of certain continued absences of a parent from the home; comments by 8-31-79

38572 **Wage and Tax Statements** Treasury/IRS proposes rules relating to requirements that employers furnish Form W-2 to employees whose employment is terminated before the end of the year; comments by 8-31-79

38573 **Distilled Spirits Plants** Treasury/ATF proposes to prescribe an increase in amount of allowable losses occuring during bottling operations; comments by 8-1-79

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Highlights

38746 **Leather Tanning and Finishing** EPA proposes rules regarding effluent limitations guidelines, pretreatment standards, and new source performance standards; (Part III of this issue)

38778 **Lifesaving Equipment** DOT/CG requires lights and retroreflective material for certain equipment; effective 8–1–79 (Part IV of this issue)

38690 **Transportation of Radioactive Materials** DOT and NRC issue memorandum of understanding

38571 **Customs Duties** Treasury/Customs proposes amendments relating to discharge of an importer's liabilities for duties; comments by 8–31–79

38792 **Electric and Gas Utility Companies** SEC proposes guidelines for disclosure; comments by 9–24–79 (Part V of this issue)

38523 **Motor Carrier Safety** DOT/FHWA amends inspection and maintenance requirements; effective 8–31–79

38810 **Safe Harbor Rule For Projections** SEC adopts rules regarding federal securities laws for statements made in certain fillings or annual reports to shareholders; effective 7–30–79 (Part VI of this issue)

38563 **Airman Certificates** DOT/FAA proposes issuance of special purpose certificates to foreign pilots and other foreign flight crewmembers; comments by 9–28–79

38471, 38583 **Air Programs** EPA publishes interpretive rule and proposes amendments dealing with statutory restrictions on construction of certain major sources of air pollution; provisions applicable to permits applied for after 6–30–79, comments by 8–1–79 (2 documents)

38724 **Sunshine Act Meetings**

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Presidential Documents

Title 3—

The President

Presidential Determination No. 79–11 of June 21, 1979

Eligibility of Barbados To Make Purchases of Defense Articles and Defense Services under the Arms Export Control Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 3(a)(1) of the Arms Export Control Act, I hereby find that the sale of defense articles and defense services to the Government of Barbados will strengthen the security of the United States and promote world peace.

You are directed on my behalf to report this finding to the Congress.

This finding, which amends Presidential Determination No. 73–10 of January 2, 1973 (38 FR 7211), as amended by Presidential Determinations No. 73–12 of April 26, 1973 (38 FR 12799), No. 74–9 of December 13, 1973 (39 FR 3537), No. 75–2 of October 29, 1974 (39 FR 39863), No. 75–21 of May 20, 1975 (40 FR 24889), No. 76–1 of August 5, 1975 (40 FR 37205), No. 76–11 of March 25, 1976 (41 FR 14163), No. 76–12 of April 14, 1976 (41 FR 18281), No. 77–5 of November 5, 1976 (41 FR 50625), No. 77–17 of August 1, 1977 (42 FR 40169), and No. 77–20 of September 1, 1977 (42 FR 48867), and No. 79–5 of February 6, 1979 (44 FR 12153), shall be published in the **Federal Register.**

THE WHITE HOUSE,
Washington, June 21, 1979.



[FR Doc. 79–20528
Filed 6–28–79; 4:27 pm]
Billing Code 3195–01–M

Rules and Regulations

Federal Register
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Monday, July 2, 1979

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and General Officers of the Department to reflect the establishment of a new Office of Small and disadvantaged Business Utilization as required by Pub. L. 95-507.

EFFECTIVE DATE: July 2, 1979.

FOR FURTHER INFORMATION CONTACT: Neil Van Vliet, Management Staff, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-6983.

SUPPLEMENTARY INFORMATION: The amendments are as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, Assistant Secretaries, the Director of Economics, Policy Analysis, and Budget, and the Director, Office of Governmental and Public Affairs

1. Section 2.25 is amended by revising paragraph (b)(1)(ii), revoking and reserving paragraph (h)(10) and adding a new paragraph (i) as follows:

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

* * * * *

(b) * * *

(1) * * *

(ii) Socioeconomic programs related to contracting, excepting matters otherwise assigned.

* * * * *

(h) * * *

(10) [Reserved]

* * * * *

(i) Related to small and disadvantaged business utilization.

(1) Implement and administer programs described under Section 8 and Section 15 of the Small Business Act, as amended.

(2) Provide Department-wide liaison and coordination of activities related to small and disadvantaged businesses with the Small Business Administration.

(3) Assist agencies in the development of policies and procedures required by the applicable provisions of the Small Business Act as amended, including the establishment of goals.

(4) Administer the Department's small and disadvantaged business program including procurement contracts, minority bank deposits and grant and loan activities affecting small and minority business.

* * * * *

Subpart J—Delegations of Authority by the Assistant Secretary for Administration

2. Section 2.75 is amended by revising paragraph (a)(1)(ii) as follows:

§ 2.75 Director, Office of Operations and Finance.

(a) * * *

(1) * * *

(ii) Socioeconomic programs relating to contracting, excepting those matters otherwise assigned to the Director, Office of Small and Disadvantaged Business Utilization.

* * * * *

3. A new § 2.79 is added as follows:

§ 2.79 Director, Office of Small and Disadvantaged Business Utilization.

(a) Delegations. Pursuant to § 2.25(i), the following delegations of authority are made by the Assistant Secretary for Administration to the Director, Office of Small and Disadvantaged Business Utilization:

(1) Implement and administer programs described under Section 8 and Section 15 of the Small Business Act, as amended.

(2) Provide Department-wide liaison and coordination of activities related to small and disadvantaged businesses with the Small Business Administration.

(3) Assist agencies in the development of policies and procedures required by the applicable provisions of the Small Business Act as amended, including the establishment of goals.

(4) Administer the Department's small and disadvantaged business program including procurement contracts, minority bank deposits and grant and loan activities affecting small and minority business.

4. Section 2.80 is amended by revoking and reserving, paragraph (a)(8) as follows:

§ 2.80 Director, Office of Equal Opportunity.

(a) * * *

(8) [Reserved]

* * * * *

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953)

For Subpart C.

Dated: June 1, 1979.

Bob Bergland,

Secretary of Agriculture.

For Subpart J.

Dated: June 1, 1979.

Joan S. Wallace,

Assistant Secretary for Administration.

[FR Doc. 79-20395 Filed 6-29-79; 8:45 am]
BILLING CODE 3410-01-M

Federal Grain Inspection Service

7 CFR Part 26

Assessment of Fees for Grain Inspection Standby Services

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Final rule.

SUMMARY: This amendment prescribes a 2-hour grace period in the assessment of fees for standby services performed by FGIS representatives in conjunction with the original online inspection of grain in the United States. The amendment will reduce the amount of standby time assessed by FGIS.

DATE: The amendment is effective on July 2, 1979.

FOR FURTHER INFORMATION CONTACT: John W. Marshall, Director, Inspection Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room

0624–S, Washington, D.C. 20250, telephone (202) 447–8497.

SUPPLEMENTARY INFORMATION: Pursuant to the authority in section 7(j) of the United States Grain Standards Act, as amended (7 U.S.C. 79(j)), hereinafter cited as Act, the FGIS is amending § 26.72(b)(1) and § 26.73(b) of the regulations (7 CFR 26.72(b)(1) and 26.73(b)) under the Act, with respect to the assessment of fees for standby services performed by authorized FGIS personnel in conjunction with the original online inspection of grain in the United States. For the purpose of this amendment, original online inspection of grain is defined as an inspection service performed during the loading or unloading of grain when the samples for inspection are obtained with an approved diverter-type mechanical sampler. Appropriate changes will be made regarding § 800.72(b)(1) and § 800.73(b) of the proposed regulations (7 CFR 800.72(b)(1) and 800.73(b)) under the Act, published in the **Federal Register** of March 2, 1979 (43 FR 11937–11938).

Section 7(j) of the Act directs the Administrator to charge and collect fees for grain inspection services performed by representatives of the Administrator of FGIS. The fees are required to be reasonable and shall, as nearly as practicable, cover the FGIS costs incident to performance of such services, excluding administrative and supervisory costs.

Comments have been received from the grain industry stating that in the original online inspection of grain the current rules for the assessment of standby fees impose an economic burden upon them. The Administrator has determined, based on a review of the current assessment of standby fees, that during the performance of original online inspection services a 2-consecutive-hour grace period shall be provided before fees for standby services are assessed. The Federal inspection fees, including the fees for standby services, are currently being evaluated. Changes in the fees are not expected to be implemented until after October 1, 1979.

A change in the assessment of fees for standby services performed by authorized FGIS personnel in conjunction with the original online inspection of grain in the United States is deemed warranted at this time. The change will provide a grace period of 2 consecutive hours of standby time before fees for standby services are assessed in conjunction with the performance by authorized FGIS personnel of original online inspection services. The change in the assessment of fees for standby services will not influence the ability to generate income adequate to cover operating costs plus maintaining a nominal operating reserve.

The costs to the FGIS of performing the services for which fees are prescribed are matters known only to the FGIS. The collection of fees for such services is prescribed by law. Therefore, it is found upon good cause that publication of a notice of proposed rulemaking and other public procedures on the change in the provisions of § 26.72(b)(1) and § 26.73(b) of the regulations (7 CFR 26.72(b)(1) and 26.73(b)) under the Act are impractical and unnecessary or contrary to the public interest. It is also found upon good cause that the changes should be effective upon the publication of this rulemaking.

Accordingly, pursuant to section 7(j) of the Act, as amended (7 U.S.C. 79(j)), § 26.72(b)(1) and § 26.73(b) of the regulations (7 CFR 26.72(b)(1) and 26.73(b)) under the Act, are hereby amended to read as follows:

§ 26.72 Federal services: Explanation of fees.

* * * * *

(b) *Fees in addition to unit and hourly fees.* (1) Fees for standby services shall be assessed in all cases except no fee shall be assessed for: (i) the first 2 consecutive hours of standby services performed by FGIS representatives in conjunction with the original online inspection of grain in the United States; and (ii) standby services performed during a regular workday under a service contract for weighing services in the United States, or under a service contract for inspection and weighing services in Canada.

* * * * *

§ 26.73 Computation and payment of fees; general fee information.

* * * * *

(b) *Computing standby.* Subject to the provisions of § 26.72(b)(1), standby fees shall be computed whenever a Service representative (1) has been requested by an applicant to perform an inspection or weighing service at a specific time and location, (2) is on duty and is ready to perform the service requested, (3) is unable to perform the service requested because of a delay by the applicant for any reason, and (4) is not released by the applicant for the performance of other duties. Standby time shall be computed to the nearest quarter hour (less meal time, if any) for each Service representative.

* * * * *

(Sec. 7(j), Pub. L. 95–113, 91 Stat. 1025 (7 U.S.C. 79(j)); Sec. 552(d), Pub. L. 89–554, 80 Stat. 383)

Done at Washington, D.C. June 26, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79–20344 Filed 6–29–79; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Parts 1803, 1822, 1823, 1872, 1901, 1902, 1933, 1942, 1943, 1945, and 1955

[FmHA Instruction 1902–A]

Supervised Bank Accounts; Loan and Grant Disbursement

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations to authorize District Directors to establish and administer supervised bank accounts, to renumber the regulation in accordance with its new numbering system, and to make appropriate cross-reference changes. This change helps to implement the Agency policy of making and servicing group-type loans through District Offices. This acton is taken as a result of an administrative restructuring of its regulations and organizational structure.

EFFECTIVE DATE: July 2, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. LaVerne Isenberg. Phone: 202–447–2852.

SUPPLEMENTARY INFORMATION: Part 1803 of Subchapter A of Chapter XVIII, Title 7, Code of Federal Regulations is deleted and reserved, and a new Subpart A of Part 1902, Chapter XVIII, Title 7 in the Code of Federal Regulations is added. These amendments authorize District Directors to establish and administer supervised bank accounts and contact the bank when pledge of collateral has not been confirmed. These amendments also conform the regulations to the new FmHA numbering system and make appropriate cross-reference changes.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking as

they are an amendment to FmHA internal operating procedures and operations. Therefore, public participaton is unnecessary and impracticable. This determination was made by L. A. Isenberg. Accordingly, miscellaneous amendments are made to Chapter XVIII as follows:

SUBCHAPTER A—GENERAL REGULATIONS

PART 1803—LOAN AND GRANT DISBURSEMENT [RESERVED]

1. Part 1803 is hereby deleted and reserved.

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

§ 1822.14 [Amended]

2. In § 1822.14, paragraph (b)(1), lines 10, change "Part 1803 of this chapter" to "Part 1902, Subpart A."

Subpart C—Farm Labor Housing Loan Policies, Procedures, and Authorizations

§ 1822.70 [Amended]

3. In § 1822.70, paragraph (g), lines 4 and 5, and § 1822.74, paragraph (b)(1), lines 4 and 5, change "Part 1803 of this chapter" to "Part 1902, Subpart A."

Subpart D—Rural Rental Housing Loan Policies, Procedures, and Authorizations

§ 1822.90 [Amended]

4. In § 1822.90, paragraph (j), lines 5 and 6, change "Part 1803 of this chapter" to "Part 1902, Subpart A." In lines 7 and 8 change § 1803.4 of this chapter" to "§ 1902.6 of Part 1902, Subpart A."

§ 1822.94 [Amended]

5. In § 1822.94, paragraph (f), line 3, change "Part 1803 of this chapter" to "Part 1902, Subpart A."

Subpart E—Farm Labor Housing Grant Policies, Procedures, and Authorizations

§ 1822.210 [Amended]

6. In § 1822.210, lines 5 and 6, change "Part 1803 of this chapter" to "Part 1902, Subpart A."

§ 1822.220 [Amended]

7. In § 1822.220, paragraph (f), lines 4 and 5, change "Part 1803 of this chapter" to "Part 1902, Subpart A."

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart F—Loans to Timber Development Organizations

§ 1823.172 [Amended]

8. In § 1823.172, paragraph (b), lines 5 and 6, change "Part 1803 of this chapter" to "Part 1902, Subpart A."

Subpart I—Processing Loans to Associations (Except for Domestic Water and Waste Disposal)

§ 1823.272 [Amended]

9. In § 1823.272, paragraph (l)(1), line 7, change "Part 1803 of this chapter" to "Part 1902, Subpart A."

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

PART 1872—REAL ESTATE SECURITY

Subpart A—Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note-Only Cases

§ 1872.3 [Amended]

10. In § 1872.3, paragraph (d)(3)(iv), line 4, change "Part 1803 of this chapter" to "Part 1902, Subpart A."

§ 1872.4 [Amended]

11. In § 1872.4, paragraph (d)(4), lines 3 and 4, change "Part 1803 of this chapter" to "Part 1902, Subpart A."

SUBCHAPTER H—PROGRAM REGULATIONS

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Subpart O—Jointly Funded Grant Assistance to State and Local Governments and Non-Profit Organizations

§ 1901.710 [Amended]

12. § 1901.710, paragraph (b)(3), lines 7 and 8, change "Part 1803 of this chapter (FmHA Instruction 402.1)" to "Part 1902, Subpart A."

PART 1933—LOAN AND GRANT PROGRAMS (GROUP)

§ 1933.409 [Amended]

13. In § 1933.409, paragraph (h), lines 17 and 18, change "Part 1803 of this chapter (FmHA Instruction 402.1)" to "Part 1902, Subpart A."

PART 1942—ASSOCIATIONS

Subpart A—Community Facility Loans

§ 1942.7 [Amended]

14. In § 1942.7, paragraph (g), lines 8 and 9, change "Part 1803 of this chapter (FmHA Instruction 402.1)" to "Part 1902, Subpart A."

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

Subpart A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations

§ 1943.35 [Amended]

15. In § 1943.35, paragraph (b)(1), lines 10 and 11, change "Part 1803 of this chapter (FmHA Instruction 402.1)" to "Part 1902, Subpart, A."

§ 1943.85 [Amended]

16. In § 1943.85, paragraph (b)(1), lines 10 and 11, change "Part 1803 of this chapter (FmHA Instruction 402.1)" to "Part 1902, Subpart A."

PART 1945—EMERGENCY

Subpart C—Economic Emergency Loans

§ 1945.129 [Amended]

17. In § 1945.129, paragraph (b)(2)(ix), lines 6 and 7, change "Part 1803 of this chapter (FmHA Instruction 402.1)" to "Part 1902, Subpart A."

PART 1955—PROPERTY MANAGEMENT

Subpart A—Liquidation of Loans and Acquisition of Property

§ 1955.15 [Amended]

18. In § 1955.15, paragraph (d)(4), lines 6, 7, and 8, change "§ 1803.11 of this chapter (FmHA Instruction 402.1, paragraph XI)" to "§ 1902.15 of Part 1902, Subpart A."

PART 1902—SUPERVISED BANK ACCOUNTS

Subpart A—Loan and Grant Disbursement

19. A new Part 1902, Subpart A is added and reads as follows:

Sec.

1902.1 General.
1902.2 Policies Concerning Disbursement of Funds.
1902.3 Procedures to Follow in Fund Disbursement.
1902.4 Reserved
1902.5 Reserved

Sec.

1902.6 Establishing Supervised Bank Accounts.
1902.7 Pledging Collateral for Deposit of Funds in Supervised Bank Account.
1902.8 Authority to Establish Supervised Bank Accounts, Deposit Loan Checks and Other Funds, Countersign Checks, Close Accounts, and Execute All Form in Connection with Supervised Bank Account Transactions.
1902.9 Deposits.
1902.10 Withdrawals.
1902.11 District office and county office records.
1902.12 Reserved
1902.13 Reserved
1902.14 Reconciliation accounts.
1902.15 Closing accounts.
1902.16 Request for Withdrawals by State Director.
1902.17—1902.50 Reserved

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Section 10, Pub. L. 93–357, 88 Stat. 392; Delegation of authority by the Secetary of Agriculture, 7 CFR 2.23; Delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Subpart A—Loan and Grant Disbursement

§ 1902.1 General.

This Subpart prescribes the policies and procedures of the Farmers Home Administration (FmHA) to be followed in the disbursement of funds under the Loan Disbursement System (LDS) and in establishing and using supervised bank accounts. The LDS system provides for disbursement of funds on an as needed basis to substantially reduce interest costs to FmHA borrowers, U.S. Treasury, and FmHA.

(a) *Form FmHA 440–1,* "Request for Obligation of Funds," provides for: (1) the obligation only, (2) obligation and check request for the full amount of the loan or grant, and (3) obligation and check request for a partial amount of the loan or grant. The instructions on when and how to use this form are contained in the Forms Manual Insert (FMI) for this form.

(b) *Form FmHA 440–57,* "Acknowledgment of Obligated Funds/Check Request," provides for: (1) the initial loan amount check, (2) all subsequent loan checks, (3) making corrections on the data in the loan account as reflected on the form, (4) notifying the Finance Office of the loan closing date and the loan amortization effective date, and (5) providing requested information from the Finance Office. The instructions on when and how to use this form are contained in the FMI for this form.

(c) See *FmHA Instruction 102.1* (available in any FmHA office) for procedures to follow if checks are lost or destroyed.

(d) Borrowers referred to in this Subpart include both loan and grant recipients. They are referred to as depositors in the deposit agreements hereinafter described. References herein and in deposit agreements to "other lenders" include lenders and grantors other than FmHA.

(e) Banks referred to in this Subpart are those in which deposits are insured by the Federal Deposit Insurance Corporation (FDIC).

(f) Supervised bank accounts referred to in this Subpart are bank accounts established through deposit agreements entered into between either (1) the borrower, the United States of America acting through the FmHA, and the bank on Form FmHA 402–1, "Deposit Agreement," or (2) the borrower, FmHA, other lenders, and the bank on Form FmHA 402–5, "Deposit Agreement (Non FmHA Funds)."

(g) Form FmHA 402–1 provides for the deposit of funds in a supervised bank account as security for payment of the borrower's indebtedness to secure the performance of the borrower's obligation to them in connection with a loan and grant are made in a separate supervised bank account.

Form FmHA 402–5 will be completed when deposits of funds advanced by other lenders as security for payments of the indebtedness to them and to assure the performance of the borrower's obligation to them in connection with a loan and grant are made in a separate supervised bank account.

(i) "Interest-Bearing Deposit Agreement" (Exhibit B), provides for the deposit of loan or grant funds that are not required for immediate disbursement in specified interest-bearing deposits, and it is executed in conjunction with Form FmHA 402–1 or Form FmHA 402–5.

§ 1902.2 Policies concerning disbursement of funds.

(a) The partial advance feature of the LDS will be utilized whenever possible in accordance with the specific program procedures, except where prohibited by State statute. The capability to request Treasury checks on an as needed basis reduced the need for supervised bank accounts. *Therefore, supervised bank accounts will be used only in rare instances, e.g.:*

(1) When a construction loan is made and the construction is substantially completed, but a small amount is being withheld pending completion of landscaping or some similar item, or a small loan closing. In this case, the amount of funds not disbursed or issued by the Finance Office when the predetermined amortization effective date occurs, and placed in a supervised bank account for future disbursement as appropriate.

(2) When a large number of checks will be issued in the construction of a dwelling or other development, as for example under the "borrower method" of construction or in Operating (OL) loan and Emergency (EM) loan. In such cases, installment checks will continue to be requested from the Finance Office as necessary and deposited in a supervised bank account and disbursed to suppliers, sub-contractors, etc. as necessary. When the construction process requires several checks to be issued at one time the LDS system can still be utilized. Those District and County offices authorized to request checks by telephone may request more than one check at a time. If more than one check is required, a Form FmHA 440–57 will be prepared for each check.

(3) Association loan and grant funds made on a multiple advance basis need not be deposited in a supervised bank account unless required by state statutes or otherwise determined by the Loan Approval Official.

(4) Supervised bank accounts will be used only when necessary to assure the correct expenditures of all or a part of loan and grant funds, borrower contributions, and borrower income. Such accounts will be limited in amount and duration to the extent feasible through the prudent disbursement of funds and the prompt termination of the interests of FmHA and other lenders when the accounts are no longer required.

(5) Income from the sale of security property or Economic Opportunity (EO) property or the proceeds from insurance on such property will be deposited in a supervised bank account under Form FmHA 402–1 when the District Director or County Supervisor determines it is necessary to do so to assure that the funds will be available for replacement of the property.

(6) When a borrower has clearly demonstrated inability to handle financial affairs, all or part of the income or other funds may be deposited in the supervised bank account under Form FmHA 402–1 or Form FmHA 402–5 if the District Director or County Supervisor determines that such an arrangement is necessary to provide guidance in major financial management practices essential to the borrower's success, subject to the following requirements:

(i) This supervisory technique will be used for a temporary period to help the

borrower learn to properly manage financial affairs. Such a period will not exceed one year unless extended by the District Director; and

(ii) The borrower is agreeable to such an arrangement.

(7) In exceptional cases when the unincorporated EO cooperative or association borrower cannot obtain a position fidelity bond, its income may be deposited as provided for in § 1902.6 (and § 1902.2 (f) of this subpart if another lender is involved).

(b) For all construction loans, and those loans to be advanced in increments, only the actual amount to be disbursed at loan closing will be requested either through the initial submission of Form FmHA 440–1 or through Form FmHA 440–57. Subsequent checks will be ordered as needed by submitting Form FmHA 440–57 of the Finance Office.

(c) Program instruction provided information as to the type of note to be utilized and the method of handling advances and the interest accrued thereon. For individual loan programs interest will accrue thereon. For individual loan program interest will accrue from the loan closing date or date of check whichever is later. For association and organization type loans interest will accrue from the date check is delivered to the borrower.

(d) For all loan accounts, when the total amount has not been advanced at the amortization effective date, as defined in the FMI for Form FmHA 440–1, the Finance Office will forward the remaining balance to the District Director or County Supervisor for appropriate action, unless the District Director or County Supervisor notifies the Finance Office of other arrangements.

(e) When a check cannot be negotiated within 20 working days from the date of the check, the District Director or County Supervisor will return the check(s) with Form FmHA–440–10, "Cancellation of Loan or Grant Check and/or Obligation," in accordance with FmHA instruction 102.1 (available in any FmHA Office)

(f) Funds provided to an FmHA borrower by another lender (through subordination agreements by the FmHA or under other arrangements between the borrower, FmHA, and the other lender) that are not used immediately after the loan and grant closing will be deposited in a supervised bank account under FmHA 402–5, provided

(1) The District Director or County Supervisor determines such action is necessary to protect FmHA's interest and to assure that the funds will be used for the purposes planned.

(2) The other lender is unwilling to control the use of such funds, and

(3) The other lender is agreeable to the use of the FmHA supervised bank account.

(g) The debt instruments executed at the time of loan closing constitutes an obligation on the part of the Government to disburse all funds at one time or in multiple advances provided the funds are for purposes authorized by the Government at the time of loan closing. This obligatory commitment takes priority over any intervening liens or advances by other creditors regardless of the provisions of the State laws involved.

§ 1902.3 Procedures to follow in fund disbursement.

(a) The District Director or County Supervisor will determine during loan approval the amount(s) of loan check(s)—full or partial—and forward such request to the Finance Office by complying with the FMI for Forms FmHA 440–1 and FmHA 440–57.

(b) Counties using the telephone to request subsequent advances will call the designated telephone number provided by the Finance Office and request all subsequent checks by providing the information required on Form 440–57.

(c) When check(s) are delivered to the District Office or District Director or County Office, the County Supervisor will make sure that the name of the borrower and the amount(s) of check(s) coincide with the request on file. The District Director or County Supervisor should be sure that the check is properly endorsed to insure payment to the intended recipient. An example of such a restrictive endorsement is:

"Pay to the order of (3rd party payee)"—(Contractor, Developer, Sub-Contractor, Building Supply House, etc.) For the purpose of _____.

(d) When necessary and only under the circumstances listed in § 1902.2 the District Director or County Supervisor will establish, or cause to be established, a supervised bank account.

§§ 1902.4 and 1902.5 [Reserved]

§ 1902.6 Establishing supervised bank accounts.

(a) Each borrower will be given an opportunity to choose the bank in which the supervised bank account will be established, or cause to be established, provided the bank is a member of the FDIC.

(b) When accounts are established, it should be determined that:

(1) The bank is fully informed concerning the provisions of Forms FmHA 402–1 and/or FmHA 402–5.

(2) Agreements are reached with respect to the services to be provided by the bank including the frequency and method of transmittal of bank statements, and

(3) Agreement is reached with the bank regarding the place where the counter-signature will be on checks, particularly where drawn on banks under electronic checking systems.

(c) When possible, District Directors of County Supervisors will make arrangements with banks which are members of the FDIC under which they will waive service charges in connection with supervised bank accounts established in such banks. However, there is no objection to the payment by the borrower of a reasonable charge for such service.

(d) If the amount of Association, Watershed (WS), Organizational Rural Rental Housing (RRH), Rural Renewal (RN), Resource Conservation and Development (RDC), EO loans to a Cooperative Association, Rural Cooperative Housing (RCH), or Organizational Labor Housing (LH) loan funds, and grant funds plus any borrower contributions and funds from other sources to be deposited in the supervised bank account will exceed $40,000 before the deposit is made (see § 1902.7). In addition, a pledge of collateral for other types of loans or grants in amounts in excess of the State Director's approval authority when determined necessary by the National Office on an individual case basis.

(e) Only one supervised bank account will be established for any borrower regardless of the amount or sources of funds, except for RRH loans where separate accounts will be established for each project.

(f) When a supervised bank account is established, an original and two copies of Form FmHA 402–1 or Form FmHA 402–5, and the Interest-Bearing Deposit Agreement (Exhibit B), when applicable, will be executed by the borrower, the bank, and a District or County Office employee. The orgininal will be retained in the borrower's case file, one executed copy will be delivered to the bank, and one executed copy to the borrower. An extra copy of the Interest-Bearing Deposit Agreement will be prepared and attached to the certificate passbook, or other evidence of deposit representing the interest-bearing deposit.

(1) If an agreement on Form FmHA 402–1 or Form FmHA 402–5 has

previously been executed and Form FmHA 402–6, "Termination of Interest in Supervised Bank Account," has not been executed with respect to it, a new agreement is not required when additional funds are to be deposited unless requested by the bank.

(2) When the note and security instrument are signed by two joint borrowers or by both husband and wife, a joint survivorship supervised bank account will be established from which either can withdraw funds if State laws permit such accounts. In such cases both parties will sign the Deposit Agreement(s).

§ 1902.7 Pledging Collateral For Deposit Of Funds In Supervised Bank Account.

(a) Funds in excess of $40,000 for borrowers referred to in § 1902.6 (d), deposited in supervised bank accounts, must be secured by pledging acceptable collateral with the Federal Reserve Bank in an amount not less than the excess.

(b) As soon as it is determined that the loan will be approved and the applicant has selected or tentatively selected a bank for the supervised bank account, the District Director or County Supervisor will contact the bank to determine:

(1) That the bank selected is a bank that is insured by the FDIC.

(2) Whether the bank is willing to pledge collateral with the Federal Reserve Bank under Treasury Circular No. 176 to the extent necessary to secure the amount of funds being deposited in excess of $40,000.

(3) If the depository bank is not a member of the Federal Reserve System it will be necessary for that bank to pledge the securities with a correspondent bank who is a member of the System. The correspondent bank should contact the Federal Reserve Bank informing them they are holding securities pledged for the supervised bank account under Treasury Circular 176.

(c) If the bank is agreeable to pledging collateral, the District Director or County Supervisor should complete a form letter (Exhibit A) in an original and two copies, the original for the National Office, the first copy for the State Office, and the second copy for the District or County Office. The form letter should be forwarded to the National Office at least 30 days before the date of loan closing.

(d) The National Office will arrange for the Treasury Department to have the bank designated as a depository, unless already designated, and to have collateral pledged.

(e) If, two days before loan closing, the State Director has not received a copy of the Treasury Department's letter to the bank confirming that the pledge of collateral has been made, contact should be made with the depositary bank to ascertain whether they have pledged collateral with their local Federal Reserve Bank in compliance with the provisions of Treasury Circular 176. If the bank has accomplished the pledge then contact the National Office, Financial Support Division.

(f) When the amount of the deposit in the supervised bank account has been reduced to a point where the bank desires part, or all of its collateral released, it should write to the Treasury Department, Domestic Banking Staff, Bureau of Government Operations, Washington, D.C. 20226, (ATTENTION: Collateral and Reports Branch) requesting the release and stating the balance in the supervised bank account.

§ 1902.8 Authority To Establish Supervised Bank Accounts, Deposit Loan Checks And Other Funds, Countersign Checks, Close Accounts, And Execute All Forms In Connection With Supervised Bank Account Transactions.

District Directors or County Supervisors are authorized to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions and redelegate this authority to a person listed in Exhibit B of FmHA Instruction 451.2 (available in any FmHA office) under their supervision who are considered capable of exercising such authority. State Directors will make written demand upon the bank for withdrawals as outlined in § 1902.16.

§ 1902.9 Deposits.

(a) *Deposit by FmHA personnel.*

(1) Checks made payable solely to the Federal Government, or any agency thereof, and a joint check when the Treasurer of the United States is a joint payee, may not be deposited in a supervised bank account.

(2) FmHA personnel will accept funds for deposit in a borrower's supervised bank account ONLY in the form of a check or money order endorsed by the borrower "For Deposit Only," or a check drawn to the order of the bank in which the funds are to be deposited, or a loan check drawn on the U.S. Treasury.

(i) A joint check that is payable to the borrower and FmHA will be endorsed by the District Director or County Supervisor as provided in paragraph V E 4 of FmHA Instruction 451.2 (available in any FmHA office).

(ii) Ordinarily, when deposits are made from funds which are received as the result of consent or subordination agreements or assignments of income, the check should be drawn to the order of the bank in which the supervised bank account is established or jointly to the order of the borrower and the FmHA. All such checks should be delivered or mailed to the District or County Office.

(3) If direct or insured loan funds (other than OL, EM, or EO loan funds) or borrower contributions are to be deposited in a supervised bank account, such funds will be deposited on the date of loan closing *after it has been determined that the loan can be closed.* However, if it is impossible to deposit the funds on the day the loan is closed due to reasons such as distance from the bank or banking hours, the funds will be deposited on the first banking day following the date of loan closing.

(4) Grant funds will be deposited when such funds are delivered.

(5) When funds from any source are deposited by FmHA personnel in a supervised bank account, a deposit slip will be prepared in an original and two copies and distribution as follows: Original to the bank, one copy to the borrower, and one copy for the borrower's case folder. The names of the borrower, the sources of funds, and "Subject to FmHA Countersignature," and if applicable, the account number will be entered on each deposit slip.

(6) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account without endorsement by the borrower when it will facilitate delivery of the check and is acceptable to the bank. The borrower will be notified immediately of any deposit made and will furnished a copy of the deposit slip. When a deposit of this nature is made, the following endorsement will be used:

"For deposit only in the supervised bank account of————(*name of borrower*) in the (*name of bank and address when necessary for identification*) pursuant to Deposit Agreement dated————."

(7) Accounts established through the use of Interest-Bearing Deposit Agreement will be in the name of the depositor and the Government.

(b) *Deposits by borrowers.* Funds in any form may be deposited in the supervised bank account by the borrower if authorized by FmHA provided the bank has agreed that when a deposit is made to the account by other than FmHA personnel, the bank will promptly deliver or mail a copy of the deposit slip to the FmHA District or County Office.

(1) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account by a borrower, provided the following endorsement is used and is inserted thereon prior to delivery to the borrower for signature:

"For deposit only in my supervised bank account in the———— *(name of bank and address when necessary for identification)* pursuant to Deposit Agreement dated ————."

(2) Funds other than loan or grant funds may be deposited by the borrower in those exceptional instances where an agreement is reached between the District Director or County Supervisor and the borrower, whereby the borrower will make deposits of income from any source directly into the supervised bank account. In such instances the borrower will be instructed to prepare the deposit slip in the manner described in § 1902.9(a)(5).

§ 1902.10 Withdrawals.

(a) The District or County Supervisor will not countersign checks on the supervised bank account for the use of funds unless the funds deposited by the borrower from other sources were cash deposits, or checks which the District Director or County Supervisor knows to be good, or until he is certain that the deposit checks have cleared.

(b) Withdrawals of funds deposited under Form FmHA 402–1 or FmHA 402–5 are permitted only by order of the borrower and countersignature of authorized FmHA personnel, or upon written demand on the bank by the State Director.

(c) Upon withdrawal or maturity of interest-bearing accounts established through the use of an Interest-Bearing Deposit Agreement, such funds will be credited to the supervised bank account established through the use of Form FmHA 402–1 or FmHA 402–5.

(d) The issuance of checks on the supervised bank account will be kept to the minimum possible without defeating the purpose of such accounts. When major items of capital goods are being purchased, or a limited number or relatively costly items of operating expenses are being paid, or when debts are being refinanced, the checks will be drawn to the vendors or creditors. If minor capital items are being purchased or numerous times of operating and family living expenses are involved as in connection with a monthly budget, a check may be drawn to the borrower to provide the funds to meet such costs.

(1) A check will be issued payable to the appropriate payee but will never be issued to "cash." The purpose of the expenditure will be clearly shown on Form FmHA 402–2, "Statement of Deposits and Withdrawals," and indicated on the face of the check. When checks are drawn in favor of the borrower to cover items too numerous to identify, the expenditure will be identified on the check, if space permits, as "miscellaneous."

(2) Normally, OL and EM loan funds will not be withdrawn from the supervised bank account until the lien search has been made and a determination reached that the required security has been obtained. This applies also to withdrawal of funds in secured individual loan cases. However, in those instances when the applicant is unable to pay for the lien search and filing fees from personal funds, a check for this purpose may be drawn on the supervised bank account to meet these loan making requirements.

(3) Ordinarily, a check will be countersigned before it is delivered to the payee. However, in justifiable circumstances such as when excessive travel on the part of the borrower, District Director or County Supervisor would be involved, or purchases would be prevented, and the borrower can be relied upon to select goods and services in accordance with the plans, a check may be delivered to the payee by the borrower before being countersigned.

(i) When a check is to be delivered to the payee before being countersigned, the District Director or County Supervisor must make it clear to the borrower and to the payee, if possible, that the check will be countersigned only if the quantity and quality of items purchased are in accordance with approved plans.

(ii) Checks delivered to the payee before countersignature will bear the following legend in addition to the legend for countersignature: "Valid only upon Countersignature of Farmers Home Administration."

(iii) The check must be presented by the payee or a representative to the District or County Office of the FmHA servicing the account for the required countersignature.

(iv) Such check must be accompanied by a bill of sale, invoice, or receipt signed by the borrower identifying the nature and cost of goods or services purchased or similiar information must be indicated on the check.

(4) For real estate loans or grants, whether the check is delivered to the payee before or after countersignature, the number, and date of the check will be inserted on all bills of sale, invoices, receipts, and itemized statements for materials, equipment, and services.

(5) Bills of sale, and so forth, may be returned to the borrower with the canceled check for the payment of the bill.

(6) Checks to be drawn on a supervised bank account will bear the legend:

"Countersigned, not as co-maker or endorser."

(Title)
Farmers Home Administration.

§ 1902.11 District office and county office records.

A record of funds deposited in a supervised bank account will be maintained on Form FmHA 402–2 in accordance with the FMI for Form FmHA 402–2 and Exhibit A of FmHA Instruction 2033–A. The record of funds provided for operating purposes by another creditor or grantor will be on a separate Form FmHA 402–2 so that they can be clearly identified.

§§ 1902.12–1902.13 [Reserved]

§ 1902.14 Reconciliation of accounts.

(a) A bank statement will obtain periodically in accordance with established banking practices in the area. If requested by the bank, a supply of addressed, franked envelopes will be provided for use in mailing bank statements and canceled checks for supervised bank accounts to the District or County Office. Bank statements will be reconciled promptly with District or County Office records. The persons making the reconciliation will initial the record and indicate the date of the action.

(b) All bank statements and canceled checks will be forwarded immediately to the borrower when bank statements and District or County Office records are in agreement. If a transmittal is used, Form FmHA 140–4, "Transmittal of Documents," is prescribed for that purpose.

§ 1902.15 Closing accounts.

When FmHA loan or grant funds or those of another lender have all been properly expended or withdrawn, Form FmHA 402–6 may be used to give FmHA's consent (and of another lender, if involved) to close the supervised bank account in the following situations:

(a) When FmHA loan funds in the supervised bank account of a borrower have been reduced to $100 or less, and a check for the unexpended balance has been issued to the borrower to be used for authorized purposes.

(b) For all loan accounts, except association loans, after completion of

authorized loan funds expenditures, and after promptly refunding any remaining unexpended loan funds on the borrower's loan account with FmHA or another lender, as appropriate.

(c) For association loan and grant accounts when the funds have been expended in accordance with the requirements of Part 1942 Subpart A and Part 1823, Subpart I (FmHA Instructions 1942–A and 442.9) the supervised bank account will be closed within 90 days following completion of development unless an extension of time is authorized in writing by the District Director. If the borrower will not agree to closing the account, the District Director or County Supervisor will request the State Director to make demand upon the bank in accordance with § 1902.16.

(d) Promptly (1) upon death of a borrower, except when the loan is being continued with a joint debtor, (2) when a borrower is in default and it is determined that no further assistance will be given, or (3) when a borrower is no longer classified as "active."

(1) *Deceased borrowers.* (i) Ordinarily, upon notice of the death of a borrower, the District Director or the County Supervisor will request the State Director to make demand upon the bank for the balance on deposit and apply all the balance after payment of any bank charges to the borrower's FmHA indebtedness. When the State Director approves continuation with a survivor, the supervised bank account of deceased borrower may be continued with a remaining joint debtor who is liable for the loan and agrees to use the unexpended funds as planned, provided:

(A) The account is a joint survivorship supervised bank account, or

(B) If not a joint survivorship account, the bank will agree to permit the addition of the surviving joint debtor's name to the existing signature card and Form FmHA 402–1 and/or 402–5 and continue to disburse checks out of the existing account upon FmHA's countersignature and the joint debtor's signature in place of the deceased borrower, or

(C) The bank will permit the State Director to withdraw the balance from the existing supervised bank account with a check jointly payable to the FmHA and the surviving joint debtor and deposit the money in new supervised bank account with a surviving joint debtor, and will disburse checks from this new account upon the signature of such survivor and the countersignature of an authorized FmHA official.

(ii) The State Director, before applying the balance remaining in the supervised bank account to the FmHA indebtedness, is authorized upon approval by the Office of the General Counsel (OGC) to refund any unobligated balances thereof made by other lenders to the FmHA borrower for specific operating purposes in accordance with subordination agreements or other arrangements between the FmHA, the lender, and the borrower.

(iii) The State Director, upon the recommendation of an authorized representative of the estate of the deceased borrower and the approval of the OGC, is authorized to approve the use of deposited funds for the payment of commitments for goods delivered or services performed in accordance with the deceased borrower's plans approved by FmHA.

(2) *Borrowers in default.* Whenever it is impossible or impractical to obtain a signed check from a borrower whose supervised bank account is to be closed, the District Director or County Supervisor will request the State Director to make demand upon the bank for the balance on deposit in the borrower's supervised bank account for application as appropriate:

(i) To the borrower's FmHA indebtedness, or

(ii) As refunds of any unobligated advance provided by other lenders which were deposited in the account, or

(iii) For the return of FmHA grant funds to the FmHA Finance Office, or

(iv) For the return of grant funds to other grantors.

(3) *Reclassified borrowers.* A reclassified borrower is one whose loan has not been paid in full, but is no longer classified as "active."

(4) *Paid up borrowers.* A paid-up borrower is one who has a balance remaining in the supervised bank account and has repaid the entire indebtedness to FmHA and has properly expended all funds advanced by other lenders. In such cases the District Director or County Supervisor will (a) notify the borrower in writing that the interests in the account of FmHA and other lenders, if any, have been terminated, and (b) inform the borrower of the balance remaining in the bank account.

§ 1902.16 Request For Withdrawals By State Director.

When the State Director is requested to make written demand upon the bank for the balance on deposit in the supervised bank account, or any part thereof, the request will be accompanied by the following information.

(a) Name of borrower as it appears on Form FmHA 402–1 and/or FmHA 402–5.

(b) Name and location of bank.

(c) Amount to be withdrawn for refund to another lender of any balance that may remain of funds received by the borrower, from such lender as a loan or grant, or under a subordination agreement or other arrangement between the FmHA, the other lender, and the borrower.

(d) Amount to be withdrawn, excluding any bank charges, for a refund of FmHA's or other lender's loans or grants.

(e) Other pertinent information including reasons for the withdrawal.

§§ 1902.17–1902.50 [Reserved]

Exhibit A—United States Department of Agriculture, Farmers Home Administration

Subject: Designated Bank—Collateral Pledge.

Date:

District Office or County Office Location: (as applicable)

Telephone No. (indicate FTS or provide area code)

To: Administrator, FmHA
Attn: Financial Support Division,
Washington, DC 20250

1. Name of borrower or grantee (Please indicate if subsequent loan).

2. Type of loan or grant funds.

3. Name and location of Main Bank (*excluding street address*).

Location of Branch Bank, ———— (If to be used for deposit of loan funds).

4. Proposed amount of FmHA: Loan $—— Grant $ ——.

5. Amount of any other funds to be deposited in addition to amount in item 4 $——.

6. Largest amount from all sources that be on deposit at any one time $——.

7. Estimated closing date ————.

8. Name of other account(s) for which the bank has pledged collateral ————. Also indicate balance of FmHA loan and/or grant funds on deposit for these accounts.

(Signature).

Exhibit B—United States Department of Agriculture, Farmers Home Administration

Interest-Bearing Deposit Agreement

Whereas, Certain funds of

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hereinafter referred to as the "Depositor," are now on deposit with the ————, hereinafter referred to as the "Bank," under a Deposit Agreement, dated ————, 19—, providing for supervision thereof by the United State of America, acting through the Farmers Home Administration, hereinafter referred to as the "Government," which Deposit Agreement grants to the Government security and/or other interests in the funds covered thereby; and,

Whereas, certain of said funds are not now required for immediate disbursement and it is the desire of the Depositor to place the same in interest-bearing deposits with the Bank;

Now Therefore, the Depositor and the Government hereby authorize and direct the Bank to place ——— Dollars ($———) of the funds subject to said deposit Agreement in interest-bearing deposits as follows:

$——— for a period of —— months at —% interest.

$——— for a period of —— months at —% interest.

$——— for a period of —— months at —% interest.

Said interest-bearing deposits and the income earned thereon at all times shall be considered a part of the account covered by said Deposit Agreement except that the right of the Depositor and the Government to jointly withdraw all or a portion of the funds in the account covered by the Deposit Agreement by an order of the Depositor countersigned by a representative of the Government, and the right of the Government to make written demand for the balance or any portion thereof, is modified by the above time deposit maturity schedule. The evidence of such time deposits shall be issued in the names of the Depositor and the Farmers Home Administration.

A copy of this Agreement shall be attached to and become a part of each certificate, passbook, or other evidence of deposit that may be issued to represent such interest-bearing deposits.

Executed this —— day of ———, United States of America

(Depositor)

By: ———

County Supervisor, Farmers Home Administration, U.S. Department of Agriculture.

By: ———

Title: ———

Accepted on the foregoing terms and conditions this —— day of ———, 19—

(Bank)

(Office or Branch)

By: ———

Title: ———

This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044.

Note.—This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environment Policy Act of 1949, Pub. L. 91–910, an Environmental Impact Statement is not required.

[7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Section 10 Pub. L. 93–357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.]

Dated: June 13, 1979.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 79-20166 Filed 6-29-79; 8:45 am]

BILLING CODE 3410-07-M

Agricultural Marketing Service

7 CFR Part 917

[Peach Regulation 11, Amendment 1]

Fresh Pears, Plums, and Peaches Grown in California; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment continues through May 31, 1980, the current minimum grade and size requirements for shipments of fresh California peaches except that it specifies a larger minimum size for unlisted varieties shipped from July 3 through October 31, 1979. The amendment takes into consideration the marketing situation facing the California peach industry, and is necessary to assure that shipments of peaches will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATES: July 3, 1979, through May 31, 1980.

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

SUPPLEMENTARY INFORMATION: Peach Regulation 11 was published in the Federal Register on May 17, 1979 (44 FR 28775). On May 31, 1979, a proposal was issued (44 FR 31189) to extend the regulatory provisions through May 31, 1980. The notice allowed interested persons until June 19, 1979, to submit written comments pertaining to the proposed amendment. No such material was submitted.

The proposal was recommended by the Peach Commodity Committee, established under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917). The marketing agreement and order regulate the handling of fresh pears, plums, and peaches grown in California and are effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is hereby found that the following amendment is in accordance with the marketing agreement and order and will tend to effectuate the declared policy of the act.

This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

It is further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the Federal Register (5 U.S.C. 553) in that (1) shipments of peaches are currently in progress and this amendment should be applicable to all such peach shipments in order to effectuate the declared policy of the act; (2) the amendment is the same as that specified in the notice to which no exceptions were filed; and (3) compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. The provisions of Peach Regulation 11 (§ 917.449; 44 FR 28775) are revised to read as follows:

§ 917.449 Peach Regulation 11.

(a) During the period July 3, 1979, through May 31, 1980, no handler shall handle:

(1) Any package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade.

(2) Any package or container of Armgold, Desertgold, Pat's Pride, Royal April, Royal Gold, or Springold variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack not more than 96 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 96 peaches.

(3) Any package or container of any type of Babcock, Bonjour, Cardinal, Dixired, Early Coronet, Early Royal May, Flavorcrest, JJK–1, June Lady, May Lady, Merrill Gemfree, Pat's Redhaven, Royal May, or Springcrest variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 84 peaches in the box;

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with

the requirements of standard pack, not more than 72 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (3) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 79 peaches.

(4) Any package or container of Aurora, Coronet, Indian Red, Merrill Gem, Redhaven, Redtop, or Regina variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (4) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 71 peaches.

(5) Any package or container of Angelus, Autumn Gem, Bella Rosa, Belmont, Cal Red, Carnival, Early Fairtime, Early O'Henry, Fairtime, Fay Elberta, Fayette, Fiesta, Fire Red, Flamecrest, Fortyniner, Franciscan, Halloween, John Gee, Jody Gaye, July Elberta (Early Elberta, Kim Elberta, and Socala), July Lady, Madera Gem, Mardigras, Merricle, O'Henry, Pacifica, Pageant, Parade, Paradise, Preuss Suncrest, Red Cal, Redglobe, Red Lady, Regular Elberta, Rio Oso Gem, Scarlet Lady, Sparkle, Summerset, Summertime, Suncrest, Sun Lady, Toreador, Treasure, Williams Gem or Windsor variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 72 peaches in the box;

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in subdivisions (i) and (ii) of this subparagraph (5) are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 64 peaches.

(b) During the period July 3, 1979, through October 31, 1979, no handler shall handle any package or container of any variety of peaches not specifically named in subparagraphs (2), (3), (4), or (5) of paragraph (a) unless:

(1) Such peaches when packed in molded forms (tray pack) in a No. 22D Standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(2) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 70 peaches in the box; or

(3) Such peaches in any container when packed other than as specified in subparagraphs (1) or (2) of this paragraph (b) are of a size that 16-pound sample, representative of the peaches in the package or container, contains not more than 71 peaches.

(c) As used herein, "U.S. No. 1" and "standard pack" mean the same as defined in the United States Standards for Peaches (7 CFR 2851.1210–1223); "No. 22D standard lug box" and "No. 12B standard fruit (peach) box" mean the same as defined in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture." All other terms mean the same as defined in the marketing order.

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

Dated: June 27, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-20317 Filed 6-29-79; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R-0233]

Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: For more convenient reference, the Secretary of the Board has approved amendments to the Board's Rules Regarding Delegation of Authority to add several previously unpublished delegations to the published rules.

EFFECTIVE DATE: March 21, 1979.

FOR FURTHER INFORMATION CONTACT: Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3257).

SUPPLEMENTARY INFORMATION: The provisions of section 553 of Title 5, United States Code, relating to notice and public participation and deferred effective date are not followed in connection with the adoption of these amendments, because the changes involved are procedural in nature and do not constitute substantive rules subject to the requirements of that section.

Effective March 21, 1979, § 265.2(f) is amended by adding subparagraphs (51)–(56) to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(f) Each Federal Reserve Bank is authorized:

* * * * *

(51) To extend the time within which a bank holding company may acquire shares, a new bank to be acquired by a bank holding company may be opened for business, or a merger may be consummated in connection with an application approved by the Board, if no material change that is relevant to the proposal has occurred since its approval.

(52) To extent the time within which a bank holding company must file its annual report.

(53) To extend the time within which—(i) A State member bank may establish a domestic branch,

(ii) A member bank may establish a foreign branch, or

(iii) An "Edge Act" or "Agreement" corporation may establish a branch or agency, if no material change has occurred in the bank's (or corporation's) general condition since the application was approved.

(54) To extend the time within which an "Edge Act" or "Agreement" corporation or a member bank may accomplish a purchase of stock that has been authorized by the Board pursuant to section 25 or 25(a) of the Federal Reserve Act, if no material change has occurred in the general condition of the corporation or the member bank since such authorization.

(55) To extend the time within which Federal Reserve membership must be accomplished, if no material change has occurred in the bank's general condition since the application was approved.

(56) To waive the penalty for deficient reserves by a member bank if, after a review of all the circumstances relating to such deficiency, the Reserve Bank concludes that waiver of the penalty is warranted, except that in no case shall a penalty for deficient reserves be waived

if the deficiency arises out of the bank's gross negligence or conduct inconsistent with the principles and purposes of reserve requirements.

(12 U.S.C. 248(k))

Board of Governors of the Federal Reserve System, June 25, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-20337 Filed 6-29-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 79-ASW-10]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area: McAlester, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to alter the transition area at McAlester, Okla. The intended effect of the action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the McAlester Municipal Airport. The circumstances which created the need for the action is the establishment of a partial instrument landing system (ILSP) and a nondirectional radio beacon (NDB) to Runway 01. In addition higher performance aircraft are utilizing the airport requiring additional controlled airspace for their protection.

EFFECTIVE DATE: August 9, 1979.

FOR FURTHER INFORMATION CONTACT: Manuel R. Hugonnett, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

History

On April 23, 1979, a notice of proposed rule making was published in the **Federal Register** (44 FR 23876) stating that the Federal Aviation Administration proposed to alter the McAlester, Okla., transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. We received no objections to the proposal. Except for editorial changes, this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the McAlester, Okla., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing established and proposed instrument approach procedures to the McAlester Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 GMT, August 9, 1979, as follows:

In subpart G, 71.181 (44 FR 442), the following transition area is altered to read:

McAlester, Okla.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the McAlester Municipal Airport (latitude 34°53'05"N., longitude 95°46'55"W.).

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Texas, on June 20, 1979.

Henry N. Stewart,

Acting Director, Southwest Region.

[FR Doc. 79-20328 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-AL-11]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Revocation of Big Mountain, Alaska, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will revoke the Big Mountain, Alaska, transition area. The Big Mountain RBN has been decommissioned and the approach procedures canceled. Therefore, the need for a transition area no longer exists. Revocation of the transition area will cause a small portion of airspace between V427 and V456 to revert to uncontrolled airspace and will have no adverse effect on airspace users.

EFFECTIVE DATE: 0901 G.m.t., October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Jerry M. Wylie, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513, telephone (907) 271-5903.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR 71) is to revoke the Big Mountain, Alaska, transition area. The Big Mountain, Alaska, transition area was last described in § 71.181 of the Federal Aviation Regulations (44 FR 442) on January 2, 1979. The Big Mountain RBN has been decommissioned and all IFR procedures based on use of the RBN canceled. The Big Mountain airport serves a military station not open for public use and there is no anticipated need for an IFR procedure in the foreseeable future. Since this amendment will result only in a minor change in controlled airspace, and in fact would reduce the constraints and impact on the public, 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, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended by revoking the Big Mountain transition area.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 1134, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, and anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Anchorage, Alaska, on June 20, 1979.

A. B. Bruck,

Acting Director, Alaskan Region.

[FR Doc. 79-20321 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-AL-12]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Revocation of Darby, Alaska, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will revoke the Darby, Alaska, transition area. The Darby noncompulsory reporting point and associated holding pattern has been cancelled. Therefore, the need for a transition area no longer exists. Revocation of the transition area will cause a portion of airspace approximately 5 miles wide and 20 miles long, located north of the north edge of V440 between 32 and 52 miles northwest of North River NDB, to revert to uncontrolled airspace and will have no adverse effect on airspace users.

EFFECTIVE DATE: 0901 g.m.t., October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Jerry M. Wylie, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513, telephone (907) 271-5903.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR 71) is to revoke the Darby, Alaska, transition area. The Darby, Alaska, transition area was last described in § 71.181 of the Federal Aviation Regulations (44 FR 442) on January 2, 1979. The transition area was designated to provide protection for IFR flights holding at the Darby noncompulsory reporting point. The Darby noncompulsory reporting point and associated holding pattern has been cancelled. Since this amendment will result only in a minor change in controlled airspace and, in fact, would reduce the constraints and impact on the public, 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, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended by revoking the Darby, Alaska, transition area.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 1134, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, and anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Anchorage, Alaska, on June 20, 1979.

A. B. Bruck,

Acting Director, Alaskan Region

[FR Doc. 79-20322 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 73

[Airspace Docket No. 78-SW-56]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Special Use Airspace; Designation of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments designate Restricted Area R-5114 near Gallup, N. Mex. This restricted airspace is necessary so that the U.S. Air Force can conduct launching of Advanced Strategic Air Launched Missiles (ASALM). This area is also designated as joint use airspace to provide for its continued normal use during the time that no hazardous activity is being conducted.

EFFECTIVE DATE: August 9, 1979.

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: On April 26, 1979, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to establish Restricted Area R-5114, at Fort Wingate, N. Mex., near Gallup, N. Mex., (44 FR 24575). Interested person were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objection to the proposal. This rule is the same as the Notice of Proposed Rule Making (NPRM) except that the amendatory language in the NPRM did not contain an amendment to Part 71 that is required for the joint use of the airspace that was explained in other sections of the NPRM. The amendment to Part 71 is contained herein in order to implement that part of the proposal. Sections 71.151 and 73.51 were published in the Federal Register on January 2, 1979 (44 FR 344 and 702).

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations add R-5114 Fort Wingate, N. Mex., southeast of Gallup, N. Mex. R-5114 is designated as joint use airspace to permit its normal use when hazardous activity is not in progress. This action provides for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the joint use restricted airspace during the times that the area is in use for military purposes. The United States Air Force has stated that the requirements of the National Environmental Policy Act have been met.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (44 FR 344 and 702) are amended effective 0901 G.m.t., August 9, 1979 as follows:

Under § 71.151

"R-5114 Fort Wingate, N. Mex., from 0001 local time September 1, 1979, to 0001 local time April 1, 1980."

is added.

Under § 73.51

"R-5114 Fort Wingate, N. Mex., Boundaries. Beginning at Lat. 35°26'00"N., Long. 108°35'00"W., to Lat. 35°05'00"N., Long. 108°07'00"W., to Lat. 34°56'00"N., Long. 108°21'40"W., to Lat. 35°25'00"N., Long. 108°37'00"W., to point of beginning.
Time of designation. Intermittent, September 1, 1979, through March 31, 1980, by NOTAM, 48 hours in advance.
Altitudes. Surface to unlimited.
Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.
Using agency. Deputy for Air Force, Armament Development and Testing

Center, White Sands Missile Range, N. Mex. 88002."

is added.

(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 regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on June 26, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-20329 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9080]

Kaiser Aluminum & Chemical Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order requires, among other things, that an Oakland, Calif. manufacturer of various products divest itself completely, within one year from the effective date of the order, of the Lavino division of International Minerals & Chemicals Corporation, subject to Commission approval; and refrain, for three years, from hiring any individual employed by the purchaser. The order further prohibits the company from acquiring any business engaged in manufacturing, distributing, or selling basic refractories, for a period of ten years; and provides for arbitration, should disputes arise between Kaiser and the acquirer.

DATES: Complaint issued April 27, 1976. Final order issued May 17, 1979.*

FOR FURTHER INFORMATION CONTACT: FTC/CSI, Tom D. Smith, Washington, D.C. 20580. (202) 724-1278.

*Copies of the Complaint, Order Amending Complaint, Amended Complaint, Initial Decision, Order Correcting Initial Decision, Opinion of the Commission, Concurring Opinion of Commissioner Pitofsky, and Final Order filed with the original document

SUPPLEMENTARY INFORMATION: In the Matter of Kaiser Aluminum & Chemical Corporation, a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5-20 Federal Trade Commission Act.

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

The Final Order, including further order requiring report of compliance therewith, is as follows:

Final Order

This matter having been heard by the Commission upon the appeal of respondent from the initial decision, and upon briefs and oral argument in support thereof and in opposition thereto, and the Commission for the reasons stated in the accompanying Opinion having determined to sustain the initial decision with certain modification:

It is ordered that the initial decision of the Administrative Law Judge be adopted as the Findings of Fact and Conclusions of Law of the Commission, except to the extent indicated in the accompanying Opinion. Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered that the following Order to Cease and Desist be, and it hereby is, entered:

I

It is ordered that:

Respondent Kaiser Aluminum and Chemical Corporation (hereinafter "Kaiser"), a corporation, and its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors, and assigns, shall divest all assets, title, properties, interests, rights and privileges of whatever nature, tangible and intangible, including without limitation all real property, buildings, machinery, equipment, tools, raw materials, reserves, inventory, customer lists, trade names, patents, trademarks and other property of whatever description acquired by Kaiser as a result of its acquisition of the basic refractories segment of the Lavino Division of International Minerals & Chemicals Corporation (hereinafter "Lavino" and "IMC") together with all additions and improvements to said property which have been made subsequent to the acquisition. Such divestiture shall be absolute, shall be accomplished no later than one year from the effective date of this Order, and shall be subject to the prior approval of the Federal Trade Commission.

II

The divestiture described in Paragraph I herein shall be accomplished absolutely to an acquiror and in a manner approved in advance by the Federal Trade Commission so as to transfer Lavino as an ongoing business and a viable, competitive, independent concern.

III

Pending divestiture, no substantial property or other asset referred to in Paragraph I herein shall be sold, leased, otherwise disposed of or incumbered, other than in the normal course of business, without the consent of the Federal Trade Commission.

IV

No individual employed by the new owner of the divested assets and engaged in research, manufacture or sale of basic refractories at any time during the period beginning on the date of the divestiture specified in Paragraph I herein and extending for three years, shall be hired by Kaiser without the consent of the Federal Trade Commission.

V

Pending any divestiture required by this Order, Kaiser shall not allow the deterioration of the property specified in Paragraph I in a manner that impairs the marketability of the business.

VI

Pursuant to the requirements of Paragraph I, none of the property or business acquired or added by Kaiser shall be divested to anyone who is an officer, director, employee or agent of Kaiser or is in any other way controlled or influenced by Kaiser, or to anyone who owns or controls, directly or indirectly, more than one percent of the outstanding shares of the capital stock of Kaiser or to anyone who is not approved in advance by the Federal Trade Commission.

VII

For a period of ten (10) years from the date this Order becomes final, Kaiser shall cease and desist from acquiring or acquiring and holding directly or indirectly, through subsidiaries or otherwise, without the prior approval of the Federal Trade Commission, the whole or any part of the stock, share

capital or assets, or any other interest in any company engaged in the business of manufacturing, distributing, or selling basic refractories in or to the United States.

VIII

Kaiser shall provide upon request of the purchaser, without charge, the use of all know-how, patents, and trade secrets developed by the Kaiser Refractories Division's basic refractories research and development staff from the time of the acquisition by Kaiser of the Lavino assets to six months after the date that Lavino has established a staff for research and development as described in Paragraph X, provided that this period shall not extend beyond the period of eighteen (18) months from the date of the divestiture specified in Paragraph I.

IX

For a period of three years from the date of the divestiture described in Paragraph I, if requested by the purchaser for its own use, Kaiser shall provide such amounts and grades of magnesia as are requested, with the maximum amounts, grades and prices to the purchaser limited to that receivable by Kaiser under the supply contract (or any renewal pursuant thereto) obtained by Kaiser from Harbison-Walker in the acquisition of the Lavino assets. Kaiser shall provide the purchaser reasonable access to documents sufficient to allow the purchaser to determine whether Kaiser is in compliance with the provisions of this paragraph.

X

For a period of one year from the date of the divestiture described in Paragraph I, Kaiser shall, if requested by the purchaser, without charge, in good faith, assist the purchaser in hiring and training a staff for research and development and for sales of basic refractories. Kaiser shall, in this regard, pay the expense of obtaining, through an employment agency picked by the purchaser, competent, technically trained, basic refractories salesmen and research and development scientists, and their supervisors. The number of such personnel shall not exceed the number employed by Lavino on November 9, 1973.

XI

At the time of the divestiture required by this Order, Kaiser shall make available to the purchaser of the property and business, a list of all of Kaiser's customers for basic refractories products who have purchased said products from respondent within three years prior to the divestiture.

XII

Any dispute between Kaiser and the purchaser arising under Paragraphs VIII–XI of this Order shall be resolved at the option of either Kaiser or the purchaser pursuant to the Commercial Arbitration Rules and the procedures of the American Arbitration Association. If arbitration is invoked by either party, such arbitration shall be exclusive and in lieu of any other common law rights. The arbitrator shall be selected by the parties from the panel of arbitrators of the American Arbitration Association or by the Federal Trade Commission in the event that the parties are unable to agree; said arbitrator shall be empowered to determine the merits of any dispute arising under Paragraphs VIII–XI of this Order, and assess the costs of arbitration; the decision of said arbitrator shall be final and binding upon the parties and judgment thereon may be entered in any court of competent jurisdiction. Arbitration shall be no cause for delay; and in the event of a default by either party in appearing before the arbitrator, pursuant to advance written notice, the arbitrator is authorized to render a decision upon the testimony of the party appearing.

XIII

One year from the effective date of this Order, and on the anniversary date of each year thereafter until the expiration of the prohibitions in Paragraph VII of this Order, Kaiser shall submit a report in writing to the Federal Trade Commission listing all acquisitions, mergers, and agreements to acquire or merge made by Kaiser relating in any way to the production or sale of basic refractories; the date of each such acquisition, merger or agreement; the products involved and such additional information as may from time to time be required.

XIV

Within thirty days from the effective date of this Order and every sixty days thereafter until it has fully complied with Paragraph I of this Order, Kaiser shall submit a verified report in writing to the Federal Trade Commission setting forth in detail the manner and form in which it intends to comply, is complying or has complied therewith. All such reports shall include in addition to such other information and documentation as may hereafter be requested: (a) a specification of the steps taken by Kaiser to make public its desire to divest Lavino; (b) a list of all persons or organizations to whom notice of divestiture has been given; (c) a summary of all discussions and negotiations together with the identity and address of all interested persons or organizations, and (d) copies of all reports, internal memoranda, offers, counteroffers, communications and correspondence concerning said divestiture.

XV

Kaiser shall notify the Commission at least thirty days prior to any proposed changes by it which may affect compliance obligations arising out of this Order.

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-20433 Filed 6-29-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

20 CFR Part 404

[Reg. No. 4]

Federal Old-Age, Survivors, and Disability Insurance; Records of Earnings

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: These final regulations revise the rules on earnings records to make them clearer and easier for the public to use. The Social Security Administration (SSA) keeps records of the earnings of persons who work in employment or self-employment covered under social security. The regulations deal mainly with the rules for correcting errors in these records. All the rules have been reorganized and rewritten in simpler, clearer language. There are no changes in policy.

EFFECTIVE DATE: These regulations are effective July 2, 1979.

FOR FURTHER INFORMATION CONTACT: James MacDonald, Room 4234, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301–594–7341.

SUPPLEMENTARY INFORMATION:

Background

"Operation Common Sense" is a Department-wide initiative to review, simplify and reduce HEW's regulations. As part of HEW's Operation Common

Sense, we proposed to completely rewrite the regulations on earnings records in Subpart I of Part 404 in Title 20 of the Code of Federal Regulations. We published our proposed revision of Subpart I in the **Federal Register** with a Notice of Proposed Rulemaking on November 28, 1978 (43 FR 55414).

Provisions of the Regulations

This subpart is an important part of the regulations issued for SSA's retirement, survivors', and disability insurance benefits program. SSA keeps a record of the earnings of all persons who work in employment or self-employment covered under social security. SSA uses these records of earnings to determine whether benefits are payable based on a person's earnings and the amount of those benefits. The regulations in this subpart deal mainly with the rules for correcting errors in the earnings records. In addition, the regulations explain the circumstances under which SSA's record of a person's earnings is conclusive evidence of earnings for social security purposes. The regulations also explain how to obtain a statement of earnings and how to request correction of the earnings record.

We proposed the following changes in the regulations:

(1) We simplifed in the title of the subpart.

(2) We simplified in § 404.802 those definitions currently used in the regulations. Also, we added some new difinitions to cover other terms that are frequently used.

(3) We clarified in § 404.810 the rule that a request to SSA for a statement of earnings must be in writing. The revised section also tells the public what information the request must contain to help us locate the record of earnings, and states that the request may be made at any social security office.

(4) We clarified and combined in § 404.820 the rules about filing a request for correction of an earnings record. We clarified the rule that a request to correct an earnings record must be filed within the time limit for correcting the year in question unless an exception to the time limit applies. The proposed section states: (a) the rule concerning who may sign a request for correction of a person's record of earnings, (b) where to file a request and what determines the date of filing, and (c) the requirements for withdrawing a request and for cancelling a withdrawal.

Some of the rules about requests in this section are the same rules that apply to applications for social security benefits. In the interest of shortening the regulations, these rules are not described in full in § 404.820. Instead they are shown by reference to the appropriate sections on applications in Subpart G.

(5) We moved to § 404.822 all the rules about correcting records of earnings after the time limit ends. We included in this section the rule about correcting an earnings record after the time limit ends based on an investigation that began before the time limit ended. We clarified the regulations to show that we will not make a downward (and therefore a normally adverse) correction of the earnings record in these cases unless we carried out the investigation as promptly as circumstances permitted.

(6) We clarified what is meant by the statutory term "absence of an entry". Section 404.822(e)(5) states that we may add wages paid to an employee by an employer for a period if no part of those wages is entered on SSA's record of the employee's earnings for that period. Wages previously entered on the record for the employee paid by that employer for that period, but later removed, are not considered entries.

(7) We deleted current § 404.811 which describes in detail the information that should be furnished with a request to revise an earnings record. In its place we have included a much shorter statement specifying the minimum information we need and indicating that any available evidence can be included with the request (see § 404.820(b)).

(8) We have deleted much of current § 404.812. The rule in § 404.812 about who makes determinations of whether covered wages were paid for work in the employ of the United States is included in § 404.823.

Comments on Notice of Proposed Rulemaking

The regulations on earnings records were published with a Notice of Proposed Rulemaking in the **Federal Register** on November 28, 1978 (43 FR 55414). The public was given the opportunity to comment on the proposed regulations through January 29, 1979. We received three comments. Our response to the comments follows. In addition to the changes we made because of the comments received, we made some nonsubstantive changes in the proposed regulations. These changes are intended to make the rules clearer and easier to read.

One commenter suggested that earnings information should include the number of quarters of coverage a contributor to the social security program has earned toward coverage for benefit purposes. We revised § 404.802 of the final regulations to show that SSA's records of a person's earnings include the number of quarters of coverage he or she has earned based on those earnings. Also, we revised § 404.810 of the final regulations to state that a person can find out the number of quarters of coverage he or she has earned by making a specific written request for that information at any social security office.

The second commenter suggested that we include in the definition of the term "survivor" grandchildren and grandparents who are potentially eligible for survivors' benefits. We have not changed the regulations as suggested by this comment. The definition of "survivor" in § 404.802 of the final regulations essentially repeats the definition of that term in the statute. See 42 U.S.C. 405(c)(1)(C). The statute lists a "child" as a "survivor" and elsewhere defines "child" to include a grandchild under certain conditions. A grandchild who is potentially eligible for survivors' benefits is a "child" under this statutory definition and is therefore considered to be a "survivor" for the purpose of these regulations. The statute does not list a grandparent as a "survivor" and therefore we cannot include a grandparent as a "survivor" under the regulations.

The third commenter said that limiting the period for correcting a person's earnings record defeats the purpose of the law. She also questioned whether SSA has sufficient staff to fill all the requests from people who, because of the time limit on correcting earnings records, may want to periodically verify the accuracy of our record of their earnings. The 3-year, 3-month, and 15-day time limit for correcting an earnings record is imposed by the Social Security Act and implemented by regulations. Therefore, the time limit is not a matter of policy which SSA can change. The purpose of the statutory time limit is to make SSA's records of a person's earnings conclusive evidence of those earnings after a reasonable period for correcting the records was passed. Thus, after the time limit ends, both SSA and the person whose earnings record it maintains are bound by what the record shows unless one of the exceptions to the time limit in § 404.822 of the final regulations applies. If none of those exceptions applies, a person cannot have the record of earnigs corrected nor can SSA remove or reduce any incorrect earnings after the time limit ends.

In regard to the commenter's other concern, it is our policy to encourage individuals to periodically verify their

earnings information in our records so that errors can be corrected before the time limit ends. We receive numerous requests for earnings information every year. We are able to anwer the requests because earnings records are maintained in automated data processing systems. Consequently, a relatively small staff is able to answer the requests and the cost is relatively low.

The proposed regulations with these changes are adopted as shown below.

(Secs. 205 (a) and (c) and 1102 of the Social Security Act, 53 Stat. 1368; 49 Stat. 647 as amended; 42 U.S.C. 405 (a) and (c) and 1302.)

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security-Disability Insurance; 13.803 Social Security-Retirement Insurance; 13.804 Social Security Special Benefits for Persons Aged 72 and Over; 13.805 Social Security-Survivors' Insurance.)

Dated: June 1, 1979.

Robert P. Bynum,

Acting Commissioner of Social Security.

Approved: June 23, 1979.

Hale Champion,

Acting Secretary of Health, Education, and Welfare.

Subpart I of Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is revised to read as follows:

Subpart I—Records of Earnings

General Provisions

Sec.

404.801 Introduction.
404.802 Definitions.
404.803 Conclusiveness of the record of your earnings.

Obtaining Earnings Information

404.810 How to obtain a statement of the record of your earnings.

Correcting the Earnings Record

404.820 Filing a request for correction of the record of your earnings.
404.821 Correction of the record of your earnings before the time limit ends.
404.822 Correction of the record of your earnings after the time limit ends.
404.823 Correction of the record of your earnings for work in the employ of the United States.

Notice of Removal or Reduction of an Entry of Earnings

404.830 Notice of removal or reduction of your wages.
404.831 Notice of removal or reduction of your self-employment income.

Authority: Secs. 205 and 1102 of the Social Security Act, as amended, 53 Stat. 1368, as amended, 49 Stat. 647, as amended; sec. 5, Reorg. Plan No. 1 of 1953, 67 Stat. 18, 631 (42 U.S.C. 405, 1302).

Subpart I—Records of Earnings

General Provisions

§ 404.801 Introduction.

The Social Security Administration (SSA) keeps a record of the earnings of all persons who work in employment or self-employment covered under social security. We use these earnings records to determine entitlement to and the amount of benefits that may be payable based on a person's earnings under the retirement, survivors', disability and health insurance program. This subpart tells what is evidence of earnings, how you can find out what the record of your earnings shows, and how and under what circumstances the record of your earnings may be changed to correct errors.

§ 404.802 Definitions.

For the purpose of this subpart—

"Earnings" means wages and self-employment income earned by a person based on work covered by social security. (See Subpart K for the rules about what constitutes wages and self-employment income for benefit purposes.)

"Period" means a taxable year when referring to self-employment income. When referring to wages it means a calendar quarter if the wages were reported or should have been reported quarterly by your employer or a calendar year if the wages were reported or should have been reported anually by your employer.

"Record of earnings", "earnings record", or "record" means SSA's records of the amounts of wages paid to you and the amounts of self-employment income you received, the periods in which the wages were paid and the self-employment income was received, and the quarters of coverage which you earned based on these earnings.

"Survivior" means your spouse, divorced wife, child, or parent, who survives you. "Survivor" also includes your surviving divorced wife who may be entitled to benefits as a surviving divorced mother.

"Tax return" means, as appropriate, a tax return of wages or a tax return of self-employment income (including information returns and other written statements filed with the Commissioner of Internal Revenue under chapter 2 or 21 of the Internal Revenue Code of 1954, as amended).

"Time limit" means a period of time 3 years, 3 months, and 15 days after any year in which you received earnings. The period may be extended by the Soldiers and Sailors Relief Act of 1940 because of your military service or the military service of certain relatives who survive you (50 U.S.C. App. 501 and following sections). Where the time limit ends on a Federal nonwork day, we will extend it to the next Federal work day.

"Wage report" means a statement filed by a State under section 218 of the Social Security Act or related regulations. This statement includes wage amounts for which a State is billed and wage amounts for which credits or refunds are made to a State according to an agreement under section 218 of the Act.

"We", "us", or "our" means the Social Security Administration (SSA).

"Year" means a calendar year when referring to wages and a taxable year when referring to self-employment income.

"You" or "your" means any person for whom we maintain a record of earnings.

§ 404.803 Conclusiveness of the record of your earnings.

(a) *Generally.* For social security purposes, SSA records are evidence of the amounts of your earnings and the periods in which they were received.

(b) *Before time limit ends.* Before the time limit ends for a year, SSA records are evidence, but not conclusive evidence, of the amounts and periods of your earnings in that year.

(c) *After time limit ends.* After the time limit ends for a year—

(1) If SSA records show an entry of self-employment income or wages for an employer for a period in that year, our records are conclusive evidence of your self-employment income in that year or the wages paid to you by that employer and the periods in which they were received unless one of the exceptions in § 404.822 applies;

(2) If SSA records show no entry of wages for an employer for a period in that year, our records are conclusive evidence that no wages were paid to you by that employer in that period unless one of the exceptions in § 404.822 applies; and

(3) If SSA records show no entry of self-employment income for that year, our records are conclusive evidence that you did not receive self-employement income in that year unless the exception in § 404.822(b)(2) (i) or (iii) applies.

Obtaining Earnings Information

§ 404.810 How to obtain a statement of the record of your earnings.

You or your legal representative or, after your death, your survivior or the legal representative of your estate, may obtain a statement of your earnings or quarters of coverage as shown by SSA

records by making a written request. The written request for a statement of your earnings or quarters of coverage may be made at any social security office. The request must be signed and contain your full name, address, social security number, and date of birth. If quarters of coverage information is wanted, this should be specifically stated in the request. The earnings statement will explain the right to request correction of your earnings record if your believe it is incorrect.

Correcting the Earnings Records

§ 404.820 Filing a request for correction of the record of your earnings.

(a) *When to file a request for correction.* You or your survivor must file a request for correction of the record of your earnings within the time limit for the year being questioned unless one of the exceptions in § 404.822 applies.

(b) *Contents of a request.* (1) A request for correction of an earnings record must be in writing and must state that the record is incorrect.

(2) A request must be signed by you or your survivor or by a person who may sign an application for benefits for you or for your survivor as described in § 404.612.

(3) A request should state the period being questioned.

(4) A request should describe, or have attached to it, any available evidence which shows that the record of earnings is incorrect.

(c) *Where to file a request.* A request may be filed with an SSA employee at one of our offices or with an SSA employee who is authorized to receive a request at a place other than one of our offices. A request may be filed with the Veterans Administration Regional Office in the Philippines or with any U.S. Foreign Service Office.

(d) *When a request is considered filed.* A request is considered filed on the day it is received by any of our offices, by an authorized SSA employee, by the Veterans Administration Regional Office in the Philippines, or by any U.S. Foreign Service Office. If using the date we receive a mailed request disadvantages the requester, we will use the date the request was mailed to us as shown by a U.S. postmark. If the postmark is unreadable or there is no postmark, we will consider other evidence of the date when the request was mailed.

(e) *Withdrawal of a request for correction.* A request for correction of SSA records of your earnings may be withdrawn as described in § 404.640.

(f) *Cancellation of a request to withdraw.* A request to withdraw a request for correction of SSA records of your earnings may be cancelled as described in § 404.641.

(g) *Determinations on requests.* When we receive a request described in this section, we will make a determination to grant or deny the request. If we deny the request, this determination may be appealed under the provisions of Subpart J of this part.

§ 404.821 Correction of the record of your earnings before the time limit ends.

Before the time limit ends for any year, we will correct the record of your earnings for that year for any reason if satisfactory evidence shows SSA records are incorrect. We may correct the record as the result of a request filed under § 404.820 or we may correct it on our own.

§ 404.822 Correction of the record of your earnings after the time limit ends.

(a) *Generally.* After the time limit for any year ends, we may correct the record of your earnings for that year if satisfactory evidence shows SSA records are incorrect and any of the circumstances in paragraphs (b) through (e) of this section applies.

(b) *Correcting SSA records to agree with tax returns.* We will correct SSA records to agree with a tax return of wages or self-employment income to the extent that the amount of earnings shown in the return is correct.

(1) *Tax returns of wages.* We may correct the earnings record to agree with a tax return of wages or with a wage report of a State.

(2) *Tax returns of self-employment income.*—(i) *Return filed before the time limit ended.* We may correct the earnings record to agree with a tax return of self-employment income filed before the end of the time limit.

(ii) *Return filed after time limit ended.* We may remove or reduce, but not increase, the amount of self-employment income entered on the earnings record to agree with a tax return of self-employment income filed after the time limit ends.

(iii) *Self-employment income entered in place of erroneously entered wages.* We may enter self-employment income for any year up to an amount erroneously entered in SSA records as wages but which was later removed from the records. However, we may enter self-employment income under this paragraph only if—

(A) An amended tax return is filed before the time limit ends for the year in which the erroneously entered wages were removed; or

(B) Net earnings from self-employment, which are not already entered in the record of your earnings, were included in a tax return filed before the end of the time limit for the year in which the erroneously entered wages were removed.

(c) *Written request for correction or application for benefits filed before the time limit ends*—(1) *Written request for correction.* We may correct an earnings record if you or your survivor files a request for correction before the time limit for that year ends. The request must state that the earnings record for that year is incorrect. However, we may not correct the record under this paragraph after our determination on the request becomes final.

(2) *Application for benefits.* We may correct an earnings record if any application is filed for monthly benefits or for a lump-sum death payment before the time limit for that year ends. However, we may not correct the record under this paragraph after our determination on the application becomes final.

(3) See Subpart J for the rules on the finality of determinations.

(d) *Transfer of wages to or from the Railroad Retirement Board.*—(1) *Wages erroneously reported.* We may transfer to or from the records of the Railroad Retirement Board earnings which were erroneously reported to us or to the Railroad Retirement Board.

(2) *Earnings certified by Railroad Retirement Board.* We may enter earnings for railroad work under Subpart O if the earnings are certified by the Railroad Retirement Board.

(e) *Other circumstances permitting correction.*—(1) *Investigation started before time limit ends.* We may correct an earnings record if the correction is made as the result of an investigation started before, but completed after the time limit ends. An investigation is started when we take an affirmative step leading to a decision on a question about the earnings record, for example, an investigation is started when one SSA unit asks another unit to obtain additional information or evidence. We will remove or reduce earnings on the record under this paragraph only if we carried out the investigation as promptly as circumstances permitted.

(2) *Error apparent on face of records.* We may correct an earnings record to correct errors, such as mechanical or clerical errors, which can be identified and corrected without going beyond any of the pertinent SSA records.

(3) *Fraud.* We may change any entry which was entered on the earnings record as the result of fraud.

(4) *Entries for wrong person or period.* We may correct errors in SSA records resulting from earnings being entered for the wrong person or period.

(5) *No entry of wages on SSA records.* We may enter wages paid to you by an employer for a period if no part of those wages are entered on SSA records. Wages previously entered on SSA records for that employer and that period but later removed are not entries on SSA records.

(6) *Wage payments under a statute.* We may enter and allocate wages awarded to you for a period as the result of a determination or agreement approved by a court or administrative agency that enforces Federal or State statutes protecting your right to employment or wages.

§ 404.823 Correction of the record of your earnings for work in the employ of the United States.

We may correct the record of your earnings to remove, reduce, or enter earnings for work in the employ of the United States only if—

(a) Correction is permitted under § 404.821 or § 404.822; and

(b) A determination has been made concerning your wages as shown by—

(1) A tax return filed under section 3122 of the Internal Revenue Code (26 U.S.C. 3122); or

(2) A certification by the head of the Federal agency or instrumentality or his or her agent. A Federal instrumentality for these purposes includes a non-appropriated fund activity of the armed forces or Coast Guard.

Notice of Removal or Reduction of an Entry of Earnings

§ 404.830 Notice of removal or reduction of your wages.

If we remove or reduce an amount of wages entered on the record of your earnings, we will notify you of this correction if we previously notified you of the amount of your wages for the period involved. We will notify your survivor if we previously notified you or your survivor of the amount of your earnings for the period involved.

§ 404.831 Notice of removal or reduction of your self-employment income.

If we remove or reduce an amount of self-employment income entered on the record of your earnings, we will notify you of this correction. We will notify your survivor if we previously notified you or your survivor of the amount of your earnings for the period involved.

[FR Doc. 79-20417 Filed 6-29-79; 8:45 am]

BILLING CODE 4110-07-M

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20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Filing Date of an Application Based on an Oral Inquiry

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: These regulations provide increased protection of supplemental security income (SSI) application dates in three ways:

(1) If people ask orally whether they are eligible for SSI but do not file a prescribed application at that time (usually because the SSA interviewer tells them they are ineligible) they will receive a written notice. The notice will tell them that we will make a formal decision on their eligibility only if they file a prescribed application within 60 days. If they file within that time, we will consider the date of their oral inquiry as their application date.

(2) If people applying for title II (retirement, survivors, or disability insurance) benefits may be eligible for SSI, we will tell them about SSI benefits and requirements. If they do not file for SSI then, we will treat the title II application as an oral inquiry about SSI. We will send the same kind of notice, and will use the date the title II application form was filed as the filing date for SSI if they file a prescribed SSI application within 60 days after the notice.

(3) We are increasing the time limit for establishing the application date based on a written inquiry from 30 days to 60 days.

DATES: Effective date July 2, 1979.

FOR FURTHER INFORMATION CONTACT: Cliff Terry, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7519.

SUPPLEMENTARY INFORMATION: We published these regulations as a Notice of Proposed Rule Making (NPRM) in the **Federal Register** on June 27, 1978 (43 FR 27853), with a 30 day comment period, later extended to 45 days.

Background

The law does not permit us to pay SSI benefits for months before the person applied for benefits. Sometimes people ask someone at a social security office whether they are eligible for SSI benefits but do not immediately file a written application. One reason for not filing is that the interviewer in the social security office may have told them that they were not eligible. Under existing regulations, if they do file a prescribed application in the next month or later and we then find that they are eligible, and were eligible when they first asked, we cannot pay them benefits for months before they actually filed the application form.

New Rules

These regulations provide that (1) when people ask about their eligibility for SSI but do not file the prescribed application form, the Social Security Administration (SSA) will send them a notice telling them that they must file an application form within 60 days after the date of the notice to get a formal decision about their eligibility, and (2) if they do, we will consider the date of their oral inquiry as their application date.

These regulations also protect the SSI benefit rights of people applying for title II benefits. Under these rules, if they are nearly age 65 or older or there is any indication that they are disabled or blind, and their title II benefits may not rule out eligibility for SSI, we will tell them about SSI benefits and requirements. If they do not then file an SSI application form, we will treat their title II application form as an oral inquiry about SSI. This means that we will send them a notice telling them that if they file an SSI application form within 60 days after the date of the notice, we will consider the date they filed the title II application form as their SSI application date.

There may be times when a person who made an oral inquiry about SSI benefits or applied for title II benefits dies before we send a notice, or within the 60-day period after the notice but before filing an SSI application form. If someone notifies SSA of the death, we will send a notice to the person's spouse. The notice will say that we will make a formal decision on the inquirer's eligibility for SSI only if (1) the spouse files an SSI application form on behalf of the deceased person within 60 days after the date of the notice to the spouse and (2) the surviving spouse was eligible for SSI and was living with the deceased within 6 months before death. If these conditions are met, we will consider the date of the oral inquiry as the application date. This rule is like our

existing rule for times when someone dies after filing a written statement.

We added the requirement that the surviving spouse be eligible for SSI and have been living with the deceased within 6 months before death to both the existing rule and the new rule as a clarification after publication of the Notice of Proposed Rule Making. This requirement is because the law does not permit us to pay SSI benefits a deceased person should have received to anyone except a surviving spouse who meets these requirements.

Finally, these regulations revise paragraph (d)(1) and (2) of § 416.335 to increase the time for filing a prescribed SSI application based on a written inquiry from 30 days to 60 days. This change makes the time limit the same for oral and written inquiries.

Discussion of Comments Received

We received 17 comments on the Notice of Proposed Rule Making. Seven favored the regulations and made no additional suggestions; nine (mostly from legal services agencies) favored them but urged more protections of the filing date; and one opposed the amendments. The commenters suggested that:

1. Paragraph (c) of § 416.336, on the effect of a title II application, should be a separate section to make it easier to find.

We have made that paragraph into a new § 416.336a.

2. The date of an oral inquiry be used as the filing date regardless of the reason for not filing an application form the same day. While the new rules were intended to protect people who are eligible for SSI from being hurt by incorrect information from SSA, we see no reason to limit the protection to that reason for not filing immediately. Therefore we have made the change in § 416.336.

3. There should be no "informal denials"; that is, inquirers should not be told that they are ineligible until they have filed an application not be told that they are ineligible until they have filed an application form. The commenter believed that an "informal denial" might confuse the inquirer and discourage the inquirer from filing an application form.

"Informal denials" save inquirers, as well as social security staff, considerable time that would otherwise be spent in filing and processing prescribed applications by and for people who are obviously ineligible. These new rules should prevent inquirers from being confused or discouraged since we are inviting them in writing to file an application form. Therefore we have not made this change.

4. We should explain SSI requirements to everyone who applies for title II benefits, since often the interviewer does not know at that time if the person's title II benefit amount will make him or her ineligible for SSI benefits. If the SSA interviewer does not know the title II benefit amount, the interviewer is to assume it will not be high enough to make the person ineligible for SSI benefits and is to explain the SSI requirements to him or her. We have revised the new § 416.336a (§ 416.336(c) in the NPRM) to make this clear.

5. We should explain SSI requirements to everyone who applies for title II disability benefits, because SSI has "less stringent disability requirements" and the person might therefore be eligible for SSI disability payments even if not disabled enough for title II disability insurance benefits.

The test of disability is generally the same for both programs. However, we have revised the new § 416.336a to say we will explain SSI if "it looks as if the person might qualify as a blind or disabled person." This contemplates that we will tell most people applying for title II disability benefits about SSI.

6. The regulation should make it clear that we take into account any State supplementary benefit when deciding whether a person's title II benefit amount will make the person ineligible for SSI benefits.

We have changed the new § 416.336a (§ 416.336(c) in the NPRM) to make it clear that SSI benefits include any State supplementary benefit which SSA handles.

7. We should (1) require the social security office staff to tell all oral inquirers that they may apply for SSI benefits immediately, and (2) give an application form and informational pamphlets about SSI to all inquirers.

We believe the information in the letter telling oral inquirers about the 60-day time period for filing an SSI application form is sufficient to protect the rights of potential SSI beneficiaries. In addition, however, we do accept an application from anyone who wishes to file one, and informational pamphlets are available at every social security office and are specifically offered to people whenever we think the pamphlets will be helpful.

8. The filing date should be protected if a person's friend, neighbor, or member of the family other than the spouse makes an oral inquiry rather than only if the inquiry was made by the person, the spouse, or someone who can apply on behalf of the person under the rules in § 416.310.

We believe this is not necessary to protect people who may be eligible for benefits. The purpose of the new regulation was to extend the ways people can establish their filing date, not to extend the number of people who can establish a filing date for someone else. The reasoning in existing § 416.310 and in the new regulation is that only the person who wants benefits or someone who clearly can speak for him or her should be able to establish the person's filing date. Therefore we have not made the suggested change.

9. The effective date of the regulation should be April 1977 when a petition for rulemaking to make this change was submitted to us. Since we kept no records of SSI inquiries where no claim was filed before April 1978, we would not be able to establish a filing date before then. Therefore, we have not made this change. However, we have been following essentially the rules in the NPRM since April 1978.

10. The additional administrative cost to SSA is too great and the regulation should not be published.

We have decided that protection of potential SSI benefit rights outweighs the added administrative costs in this instance. Accordingly, we have decided to adopt these rules.

11. We should count telephone inquiries as oral inquiries.

This was our intention, and we have added a phrase to § 416.336(c) to say so.

Since publication of the Notice of Proposed Rule Making we have rewritten the proposed regulations to make them shorter, simpler, and clearer. We are working on a more thorough rewrite of the entire subpart for the same purpose under "Operation Common Sense." We have also conformed the rule in § 416.336(d) on to whom we send the notice to the existing rule in § 416.335(d)(1) on written statements.

The proposed regulations, with changes as noted above, are adopted as set forth below.

(Secs. 1102, 1611(c), and 1631(d)(1) and (e)(1) of the Social Security Act; 49 Stat. 647, as amended, 86 Stat. 1466, as amended, and 86 Stat. 1475; 42 U.S.C. 1302, 1382(c), and 1383(d)(1) and (e)(1).)

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income program.)

Dated: June 15, 1979.

Standford G. Ross,

Commissioner of Social Security.

Approved: June 23, 1979.

Hale Champion,

Acting Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. In § 416.335, paragraph (d)(1) and (2) are revised to read as follows:

§ 416.335 When written statement considered an application.

* * * * *

(d) * * *

(1) The Social Security Administration will send a written notice to the claimant or (where he or she is a minor or incompetent) to the person who sent the statement. The notice will say that the Social Security Administration will make an initial determination of eligibility for SSI benefits if an application form is filed within 60 days after the date of the notice. The application form must be filed by the claimant or by someone who may sign an application on behalf of the claimant.

(2) If the Social Security Administration learns that the claimant has died before the notice is sent or within the 60 days after the notice but before an application is filed, the Social Security Administration will send a notice to the claimant's spouse. The notice will say that the Social Security Administration will make an initial determination on eligibility for SSI benefits only if an application form is filed on behalf of the deceased within 60 days after the date of the notice to the spouse and only if the surviving spouse was eligible for SSI and was living with the deceased within 6 months before death.

* * * * *

2. Sections 416.336 and 416.336a are added to read as follows:

§ 416.336 Use of date of oral inquiry as application filing date.

An oral inquiry about SSI benefits may be used to establish the filing date of an application if the following requirements are met—

(a) The inquiry is made by the claimant, the claimant's spouse, or a person on the claimant's behalf as described in § 416.310.

(b) The inquiry asks about the claimant's eligibility for SSI benefits.

(c) The inquiry, whether in person or by telephone, is directed to an office or an official described in § 416.330(a).

(d) The claimant or a person on his or her behalf as described in § 416.310 files an application on a prescribed form within 60 days after the date of the notice the Social Security Administration will send telling of the need to file an application. (The Social Security Administration will send the notice to the claimant or, where he or she is a minor or incompetent, to the person who made the inquiry.)

(e) The claimant is alive when the application on a prescribed form is filed. (Exception: If the Social Security Administration learns that the claimant has died before the notice is sent or within the 60 days after the notice but before an application is filed, the Social Security Administration will send a notice to the claimant's spouse. The notice will say that the Social Security Administration will make an initial determination on eligibility for SSI benefits only if an application form is filed on behalf of the deceased within 60 days after the date of the notice to the spouse and only if the surviving spouse was eligible for SSI and was living with the deceased within 6 months before death.)

§ 416.336a Treating a title II application as an oral inquiry about SSI benefits.

(a) When a person applies for benefits under title II (retirement, survivors, or disability benefits) the Social Security Administration will explain the requirements for receiving SSI benefits and give the person a chance to file an application for them if—

(1) The person is within 2 months of age 65 or older or it looks as if the person might qualify as a blind or disabled person, and

(2) It is not clear that the person's title II benefits would prevent him or her from receiving SSI or any State supplementary benefits handled by the Social Security Administration.

(b) If the person applying for title II benefits does not file an application for SSI on a prescribed form when SSI is explained to him or her, the Social Security Administration will treat his or her filing of an application for title II benefits as an oral inquiry about SSI, and the date of the title II application form may be used to establish the SSI application date if the requirements of § 416.336 (d) and (e) are met.

[FR Doc. 79-20419 Filed 6-29-79; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-267-76]

Involuntary Conversion of Real Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error in the publication of Treasury Decision 7625.

EFFECTIVE DATE: This correction is effective as of the same date as Treasury decision 7625, which is December 31, 1974.

FOR FURTHER INFORMATION CONTACT: David B. Cubeta of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR:T 202-566-3926.

SUPPLEMENTARY INFORMATION:

Background

On May 30, 1979, the Federal Register published Treasury Decision 7625 (44 FR 31012). That Treasury decision adopted final regulations under section 1033 of the Internal Revenue Code of 1954, concerning the involuntary conversion of real property.

Need for Correction

A typographical error was made in a date designation in the forth sentence of § 1.1033(f)-1(b) as set forth in the full text of the Treasury decision. This document corrects this error by changing the date from "October 4, 1976" to "October 3, 1976".

Drafting Information

The principal author of this correction is David B. Cubeta of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service.

Correction of Treasury Decision

Accordingly, FR Doc. 79-16726 (44 FR 31012) is amended as follows:

In Par. 9 on page 31013 the date "October 4, 1976" is changed to "October 3, 1976" in the fourth sentence of § 1.1033(f)-1(b).

David E. Dickinson,

Assistant Director, Legislation and Regulations Division.

[FR Doc. 79-20426 Filed 6-29-79; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners; Correction

AGENCY: United States Parole Commission.

ACTION: Final Rule; Correction.

SUMMARY: This document removes an unnecessary correction.

EFFECTIVE DATE: March 5, 1979.

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) 724–7567.

SUPPLEMENTARY INFORMATION: In FR 79–1344 issue of Tuesday, January 16, 1979, page 3408, the correction to § 2.2 should be disregarded.

Dated: June 22, 1979.

Cecil C. McCall,

Chairman, United States Parole Commission.

[FR Doc. 79–20427 Filed 6–29–79; 8:45 am]

BILLING CODE 4410–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Parts 850, 1627

Records To Be Made or Kept Relating to Age; Notices To Be Posted; Administrative Exemptions; Recodification of 29 CFR Part 850

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: Pursuant to Reorganization Plan No. 1 of 1978, 43 FR 19807 (May 9, 1978), responsibility and authority for enforcement of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 *et seq.* was transferred from the Department of Labor to the Equal Employment Opportunity Commission. The transfer became effective and the Commission assumed enforcement of this Act on July 1, 1979.

In order to assist the Commission in the performance of its duties under the Act and in order to provide for continuity in enforcement of the Act, the Commission has adopted, with only minor changes to reflect the transfer of authority to the Commission, the recordkeeping requirements and administrative exemption provisions of the Department of Labor as set forth in 29 CFR Part 850.

EFFECTIVE DATE: July 2, 1979.

FOR FURTHER INFORMATION CONTACT: Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, Room 2254, EEOC, 2401 E Street, N.W., Washington, D.C. 20506, (202) 634–6595.

Signed this 27th day of June, 1979.

For the Commission.

Eleanor Holmes Norton,

Chair, EEOC.

Accordingly, the adopted regulations of the Equal Employment Opportunity Commission, 29 CFR Part 1627, read as follows:

PART 1627—RECORDS TO BE MADE OR KEPT RELATING TO AGE: NOTICES TO BE POSTED: ADMINISTRATIVE EXEMPTIONS

Subpart A—General

Sec.

1627.1 Purpose and scope.

Subpart B—Records to be Made or Kept Relating to Age; Notices To Be Posted

1627.2 Forms of records.
1627.3 Records to be kept by employers.
1627.4 Records to be kept by employment agencies.
1627.5 Records to be kept by labor organizations.
1627.6 Availability of records for inspection.
1627.7 Transcription and reports.
1627.8–1627.9 [Reserved]
1627.10 Notices to be posted.
1627.11 Petitions for recordkeeping exceptions.

Subpart C—Administrative Exemptions

1627.15 Administrative exemptions; procedures.
1627.16 Specific exemptions.

Authority: Sec. 7, 81 Stat. 604; 29 U.S.C. 626; sec. 11, 52 Stat. 1066, as amended, 29 U.S.C.; sec. 2, Reorg. Plan No. 1 of 1978, 43 FR 19807.

§ 1627.1 Purpose and scope.

(a) Section 7 of the Age Discrimination in Employment Act of 1967 (hereinafter referred to in this part as the Act) empowers the Commission to require the keeping of records which are necessary or appropriate for the administration of the Act in accordance with the powers contained in section 11 of the Fair Labor Standards Act of 1938. Subpart B of this part sets forth the recordkeeping and posting requirements which are prescribed by the Commission for employers, employment agencies, and labor organizations which are subject to the Act. Reference should be made to section 11 of the Act for definitions of the terms "employer", "employment agency", and "labor organization". General interpretations of the Act and of this part are published in Part 1625 of this chapter. This part also reflects pertinent delegations of the Commission's duties.

(b) Subpart C of this part sets forth the Commission's rules under section 9 of the Act providing that the Commission may establish reasonable exemptions to and from any or all provisions of the Act as it may find necessary and proper in the public interest.

Subpart B—Records To Be Made or Kept Relating to Age; Notices To Be Posted

§ 1627.2 Forms of records.

No particular order or form of records is required by the regulations in this Part 1627. It is required only that the records contain in some form the information specified. If the information required is available in records kept for other purposes, or can be obtained readily by recomputing or extending data recorded in some other form, no further records are required to be made or kept on a routine basis by this Part 1627.

§ 1627.3 Records to be kept by employers.

(a) Every employer shall make and keep for 3 years payroll or other records for each of his employees which contain:

(1) Name;

(2) Address;

(3) Date of birth;

(4) Occupation;

(5) Rate of pay, and

(6) Compensation earned each week.

(b)(1) Every employer who, in the regular course of his business, makes, obtains, or uses, any personnel or employment records related to the following, shall, except as provided in subparagraphs (3) and (4) of this paragraph, keep them for a period of 1 year from the date of the personnel action to which any records relate:

(i) Job applications, resumes, or any other form of employment inquiry whenever submitted to the employer in response to his advertisement or other notice of existing or anticipated job openings, including records pertaining to the failure or refusal to hire any individual,

(ii) Promotion, demotion, transfer, selection for training, layoff, recall, or discharge of any employee,

(iii) Job orders submitted by the employer to an employment agency or labor organization for recruitment of personnel for job openings,

(iv) Test papers completed by applicants or candidates for any position which disclose the results of

any employer-administered aptitude or other employment test considered by the employer in connection with any personnel action,

(v) The results of any physical examination where such examination is considered by the employer in connection with any personnel action,

(vi) Any advertisements or notices to the public or to employees relating to job openings, promotions, training programs, or opportunities for overtime work.

(2) Every employer shall keep on file any employee benefit plans such as pension and insurance plans, as well as copies of any seniority systems and merit systems which are in writing, for the full period the plan or system is in effect, and for at least 1 year after its termination. If the plan or system is not in writing, a memorandum fully outlining the terms of such plan or system and the manner in which it has been communicated to the affected employees, together with notations relating to any changes or revisions thereto, shall be kept on file for a like period.

(3) In the case of application forms and other preemployment records of applicants for positions which are, and are known by applicants to be, of a temporary nature, every record required to be kept under subparagraph (1) of this paragraph shall be kept for a period of 90 days from the date of the personnel action to which the record relates.

(4) When an enforcement action is commenced under section 7 of the Act regarding a particular applicant or employee, the Commission or its authorized representative may require the employer to retain any record required to be kept under subparagraph (1), (2), or (3) of this paragraph which is relative to such action until the final disposition thereof.

§ 1627.4 Records to be kept by employment agencies.

(a)(1) Every employment agency which, in the regular course of its business, makes, obtains, or uses, any records related to the following, shall, except as provided in subparagraphs (2) and (3) of this paragraph, keep them for a period of 1 year from the date of the action to which the records relate:

(i) Placements;

(ii) Referrals, where an individual is referred to an employer for a known or reasonably anticipated job opening;

(iii) Job orders from employers seeking individuals for job openings;

(iv) Job applications, resumes, or any other form of employment inquiry or record of any individual which identifies his qualifications for employment, whether for a known job opening at the time of submission or for future referral to an employer;

(v) Test papers completed by applicants or candidates for any position which disclose the results of any agency-administered aptitude or other employment test considered by the agency in connection with any referrals;

(vi) Advertisements or notices relative to job openings.

(2) In the case of application forms and other preemployment records of applicants for positions which are, and are known by applicants to be, of a temporary nature, every record required to be kept under subparagraph (1) of this paragraph shall be kept for a period of 90 days from the date of the making or obtaining of the record involved.

(3) When an enforcement action is commenced under section 7 of the Act regarding a particular applicant, the Commission or its authorized representative may require the employment agency to retain any record required to be kept under subparagraph (1) or (2) of this paragraph which is relative to such action until the final disposition thereof.

(b) Whenever an employment agency has an obligation as an "employer" or a "labor organization" under the Act, the employment agency must also comply with the recordkeeping requirements set forth in § 1627.3 or § 1627.5, as appropriate.

§ 1627.5 Records to be kept by labor organizations.

(a) Every labor organization shall keep current records identifying its members by name, address, and date of birth.

(b) Every labor organization shall, except as provided in paragraph (c) of this section, keep for a period of 1 year from the making thereof, a record of the name, address, and age of any individual seeking membership in the organization. An individual seeking membership is considered to be a person who files an application for membership or who, in some other manner, indicates a specific intention to be considered for membership, but does not include any individual who is serving for a stated limited probationary period prior to permanent employment and formal union membership. A person who merely makes an inquiry about the labor organization or, for example, about its general program, is not considered to be an individual seeking membership in a labor organization.

(c) When an enforcement action is commenced under section 7 of the Act regarding a labor organization, the Commission or its authorized representative may require the labor organization to retain any record required to be kept under paragraph (b) of this section which is relative to such action until the final disposition thereof.

(d) Whenever a labor organization has an obligation as an "employer" or as an "employment agency" under the Act, the labor organization must also comply with the recordkeeping requirements set forth in § 1627.3 or § 1627.4, as appropriate.

§ 1627.6 Availability of records for inspection.

(a) *Place records are to be kept.* The records required to be kept by this part shall be kept safe and accessible at the place of employment or business at which the individual to whom they relate is employed or has applied for employment or membership, or at one or more established central recordkeeping offices.

(b) *Inspection of records.* All records required by this part to be kept shall be made available for inspection and transcription by authorized representatives of the Commission during business hours generally observed by the office at which they are kept or in the community generally. Where records are maintained at a central recordkeeping office pursuant to paragraph (a) of this section, such records shall be made available at the office at which they would otherwise be required to be kept within 72 hours following request from the Commission or its authorized representative.

§ 1627.7 Transcriptions and reports.

Every person required to maintain records under the Act shall make such extension, recomputation or transcriptions of his records and shall submit such reports concerning actions taken and limitations and classifications of individuals set forth in records as the Commission or its authorized representative may request in writing.

§ 1627.8–1627.9 [Reserved]

§ 1627.10 Notices to be posted.

Every employer, employment agency, and labor organization which has an obligation under the Age Discrimination in Employment Act of 1967 shall post and keep posted in conspicuous places upon its premises the notice pertaining to the applicability of the Act prescribed by the Commission or its authorized representative. Such a notice must be posted in prominent and accessible places where it can readily be observed

by employees, applicants for employment and union members.

§ 1627.11 Petitions for recordkeeping exceptions.

(a) *Submission of petitions for relief.* Each employer, employment agency, or labor organization who for good cause wishes to maintain records in a manner other than required in this part, or to be relieved of preserving certain records for the period or periods prescribed in this part, may submit in writing a petition to the Commission requesting such relief setting forth the reasons therefor and proposing alternative recordkeeping or record-retention procedures.

(b) *Action on petitions.* If, no review of the petition and after completion of any necessary or appropriate investigation supplementary thereto, the Commission shall find that the alternative procedure proposed, if granted, will not hamper or interfere with the enforcement of the Act, and will be of equivalent usefulness in its enforcement, the Commission may grant the petition subject to such conditions as it may determine appropriate and subject to revocation. Whenever any relief granted to any person is sought to be revoked for failure to comply with the conditions of the Commission, that person shall be notified in writing of the facts constituting such failure and afforded an opportunity to achieve or demonstrate compliance.

(c) *Compliance after submission of petitions.* The submission of a petition or any delay of the Commission in acting upon such petition shall not relieve any employer, employment agency, or labor organization from any obligations to comply with this part. However, the Commission shall give notice of the denial of any petition with due promptness.

Subpart C—Administrative Exemptions

§ 1627.15 Administrative exemptions; procedures.

(a) Section 9 of the Act provides that, "In accordance with the provisions of subchapter II of chapter 5, of title 5, United States Code, the Secretary of Labor * * * may establish such reasonable exemptions to and from any or all provisions of this Act as he may find necessary and proper in the public interest."

(b) The authority conferred on the Commission by section 9 of the Act to establish reasonable exemptions will be exercised with caution and due regard for the remedial purpose of the statute to promote employment of older persons based on their ability rather than age and to prohibit arbitrary age discrimination in employment. Administrative action consistent with this statutory purpose may be taken under this section, with or without a request therefor, when found necessary and proper in the public interest in accordance with the statutory standards. No formal procedures have been prescribed for requesting such action. However, a reasonable exemption from the Act's provisions will be granted only if it is decided, after notice published in the **Federal Register** giving all interested persons an opportunity to present data, views, or arguments, that a strong and affirmative showing has been made that such exemption is in fact necessary and proper in the public interest. Request for such exemption shall be submitted in writing to the Commission.

§ 1627.16 Specific exemptions.

(a) Pursuant to the authority contained in section 9 of the Act and in accordance with the procedure provided therein and in § 1627.15(b) of this part, it has been found necessary and proper in the public interest to exempt from all prohibitions of the Act all activities and programs under Federal contracts or grants, or carried out by the public employment services of the several States, designed exclusively to provide employment for, or to encourage the employment of, persons with special employment problems, including employment activities and programs under the Manpower Development and Training Act of 1962, as amended, and the Economic Opportunity Act of 1964, as amended, for persons among the long-term unemployed, handicapped, members of minority groups, older workers, or youth. Questions concerning the application of this exemption shall be referred to the Commission for decision.

(b) Any employer, employment agency, or labor organization the activities of which are exempt from the prohibitions of the Act under paragraph (a) of this section shall maintain and preserve records containing the same information and data that is required of employers, employment agencies, and labor organizations under §§ 1627.3, 1627.4, and 1627.5, respectively.

[FR Doc. 79-20336 Filed 6-29-79; 8:45 am]

BILLING CODE 6570-06-M

DEFENSE LOGISTICS AGENCY

32 CFR Part 1289

[DLAR 5500.1]

Standards of Conduct

AGENCY: Defense Logistics Agency.

ACTION: Final rule.

SUMMARY: The Defense Logistics Agency amends its regulation concerning Standards of Conduct. The Amended regulation contains several significant changes from previous guidance. All DLA employees regardless of grade who make final decisions affecting non-Federal interests may be required to file Confidential Statements of Affiliations and Financial Interests. Information required to be included on any disqualification notice must identify subsidiaries and affiliates. In addition, the reporting requirements for suspected violations of standards of conduct statutes or regulations have been revised and a provision has been added to advise military and civilian personnel leaving Federal service concerning post employment situations. This rulemaking is intended to implement DoD Directive 5500.7, Standards of Conduct, and supersedes DLAR 5500.1, March 23, 1977.

EFFECTIVE DATE: May 9, 1979.

ADDRESS: Defense Logistics Agency, Office of Counsel (DLA–G), Cameron Station, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Mrs. Essie A. Schloss, Assistant Counsel, Administration and Personnel, 202–274–6163, AUTOVON 284–6163.

By order of the Director.

J. J. McAleer, Jr.,

Colonel, USA, Staff Director, Administration.

Part 1289, Subchapter B, Chapter XII of Title 32 of the Code of Federal Regulations is added to read as follows:

PART 1289—STANDARDS OF CONDUCT

Sec.

1289.1 References*.
1289.2 Purpose and scope.
1289.3 Policy.
1289.4 Definitions.
1289.5 Significant changes.
1289.6 Responsibilities.
1289.7 Procedures.

Appendix A—Reqirements for Submission of DD Form 1555 Statements.
Appendix B—Notice of Disqualification.
Appendix C—Digest of Laws.

*Referenced publications may be purchased from the Defense Logistic Agency, DASC–IP, Cameron Station, Alexander, Va. 22314.

Authority: Executive Order 11222, May 8, 1965, as amended by Executive Order 12107, December 28, 1978; DoD Directive 5500.7, January 15, 1977

PART 1289—STANDARDS OF CONDUCT

§ 1289.1 References.

(a) DLAR 1005.1, Decorations and Gifts from Foreign Governments.

(b) DLAR 5030.8, DLA Community Services Program.

(c) DLAR 5400.13, Clearance of Information for Public Release.

(d) DLAR 5500.4, Policies Governing Participation of DLA and Its Personnel in Activities of Private Associations.

(e) DLAR 7700.3, Reporting Procedures on Defense Related Employment.

§ 1289.2 Purpose and scope.

(a) All DLA personnel, regardless of assignment, are to conduct themselves, both on and off the job, in such a manner as to preclude not only the existence, but even the appearance, of an actual or potential conflict of interests between their official responsibilities and their outside activities. This Part 1289 prescribes the standards of conduct relating to possible conflicts between private interests and official duties. Close adherence to these standards will ensure compliance with the high ethical standards demanded of all public servants. Appendix C is a brief reference to statutes generally applicable to all Federal employees and specifically applicable to military or civilian employees of the Department of Defense. Violations of these statutes or regulations carry the full range of statutory and administrative sanctions for all civilian and military personnel. This Part 1289 implements DoD Directive 5000.7, Standards of Conduct.

(b) This Part 1289 is applicable to HQ DLA and all DLA field activities.

§ 1289.3 Policy.

(a) *Proper Conduct of Official Activities.* (1) DLA personnel shall become familiar with the standards governing their personal conduct. The statutory requirements are outlined at Appendix C. The regulatory requirements are set forth herein and in the regulations cited in § 1289.7. In addition, DLA personnel shall become familiar with the scope and limitations of their authority and shall act in accordance therewith in the performance of their responsibilities.

(2) DLA personnel shall not take or recommend any action or make or recommend any expenditure of funds known or believed to be in violation of U.S. laws, executive orders, or applicable directives, instructions, or regulations.

(3) In cases of doubt as to the propriety of a proposed action or decision in terms of regulation or law, DLA personnel shall consult the Standards of Conduct Counselor or Deputy Counselor to ensure the proper and lawful conduct of DLA programs and activities.

(b) *Equal Opportunity.* DLA personnel shall scrupulously adhere to the DLA program of equal opportunity regardless or race, color, religion, sex, age, national origin, or handicap.

(c) *Conduct Prejudicial to the Government.* DLA personnel shall avoid any action, whether or not specifically prohibited by this Part 1289, which might result in, or reasonably be expected to create the appearance of:

(1) Using public office for private gain.

(2) Giving preferential treatment to any person or entity.

(3) Impeding Government efficiency or economy.

(4) Losing complete independence or impartiality.

(5) Making a Government decision outside official channels.

(6) Affecting adversely the confidence of the public in the integrity of the Government.

(d) *Conflicts of Interests (1) Affiliations and Financial Interests.* DLA personnel shall not engage in any personal, business, or professional activity, or receive or retain any direct or indirect financial interest which places them in a position of conflict between their private interests and the public interests of the United States related to the duties or responsibilities of their DLA positions. For the purpose of this prohibition, the private interests of a spouse, minor child, and any household members are treated as private interests of the DLA personnel.

(2) *Using Inside Information.* DLA personnel shall not use, directly or indirectly, inside information to further a private gain for themselves or others if that information is not generally available to the public and was obtained by reason of their DLA positions.

(3) *Using DLA Position.* DLA personnel are prohibited from using their positions to induce, coerce, or in any manner influence any person, including subordinates, to provide any benefit, financial or otherwise, to themselves or others.

(4) *Membership in Associations.* Membership or activities of DLA pesonnel in non-Governmental associations or organizations must be such as not to be incompatible with their official Government positions (see DLAR 5500.4).

(5) *Commercial Soliciting by DLA Personnel.* To eliminate the appearance of coercion, intimidation, or pressure from rank, grade, or position, full time DLA personnel, except special Government employees, are prohibited from making personal commercial solicitations or sales to DLA personnel who are junior in rank or grade, at any time, on or off duty.

(i) This limitation includes, but is not limited to, the solicitation and sale of insurance, stocks, mutual funds, real estate, and any other commodities, goods, or services.

(ii) This prohibition is not applicable to the one-time sale by individuals of their own personal property or privately owned dwelling or to the off-duty employment of DLA personnel as employees in retail stores or other situations not including solicited sales.

(iii) For civilian personnel, the limitation applies only to personnel under their supervision at any level.

(6) *Charitable Solicitations by DLA Personnel.* Charitable solicitations are governed by DLAR 5035.1, Fund Raising Within the Defense Logistics Agency.

(7) *Dealing with Present and Former Military and Civilian Personnel.* DLA personnel shall not knowingly deal on behalf of the Government with present or former Government personnel, military or civilian, whose participation in the transaction would be in violation of a statute, regulation, or policy set forth in this Part 1289.

(8) *Assignment of Reserves for Training.* DLA personnel who are responsible for assigning Reserves for training shall not assign them to duties in which they will obtain information that could be used by them or their private sector employers to gain unfair advantage over civilian competitors.

(9) *Prohibited Selling by Retired Officers.* There are legal limitations on sales by retired regular military officers to any component of the Department of Defense, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service (see appendix C).

(10) *Bribery and Graft.* In general, DLA personnel may be subject to criminal penalties if they solicit, accept, or agree to accept anything of value in return for performing or refraining from performing an official act.

(11) *Disqualification or Divestiture Requirements.* Unless otherwise expressly authorized by law, all DLA personnel who have affiliations or financial interests which create conflicts or appearances of conflicts of interests

with their official duties must disqualify themselves from any official activities that are related to those affiliations or interests of the entities involved. A formal disqualification must be sent to an individual's supervisor and immediate subordinates whenever it appears possible that official functions may affect those affiliations, interests, or entities. The disqualification statement must identify the parent, subsidiaries and affiliates, if any, of the entities involved. If the individual cannot adequately perform assigned official duties after such disqualification, divestiture will be required or the individual must be removed from that position. DLA personnel need not disqualify themselves for holding shares of a widely-held, diversified mutual fund or regulated investment company. Such holdings are exempted as being too remote or inconsequential to affect the integrity of the services of DLA personnel.

(e) *Gratuities.* (1) *Policy Basis.* The acceptance of gratuities by DLA personnel or their immediate families, no matter how innocently tendered and received, from those who have or seek business with the Department of Defense and from those whose business interests are affected by Department functions may be a source of embarrassment to the Department, may affect the objective judgment of the DLA personnel involved, and may impair public confidence in the integrity of the Government.

(2) *General Prohibition.* Except as provided in paragraph (3) of this section, DLA personnel and their immediate families shall not solicit, accept, or agree to accept any gratuity for themselves, members of their immediate families, or others, either directly or indirectly from or on behalf of any source that:

(i) Is engaged in or seeks business or financial relations of any sort with any DoD Component.

(ii) Conducts operations or activities that are either regulated by a DoD Component or significantly affected by DoD decisions.

(iii) Has interests that may be substantially affected by the performance or nonperformance of the official duties of DLA personnel.

(3) *Limited Exceptions.* The general prohibition in paragraph (2) of this section does not apply to the following:

(i) The continued participation in employee welfare or benefit plans of a former employer when permitted by law and approved by the Standards of Conduct Counselor.

(ii) The acceptance of unsolicited advertising or promotional items that are less than $5 in retail value.

(iii) The acceptance of trophies, entertainment, prizes, or awards for public service or achievement or given in games or contests which are clearly open to the public generally.

(iv) The acceptance of things available to the public, such as university scholarships and free exhibitions by Defense contractors at public trade fairs.

(v) The acceptance of discounts or concessions extended DLA-wide and realistically available to all personnel in DLA.

(vi) Participation by DLA personnel in civic and community activities when any relationship with Defense contractors is remote; for example, participation in a Little League or Combined Federal Campaign luncheon which is subsidized by a Defense contractor.

(vii) Social activities engaged in by DLA personnel with local civic leaders as part of community relations programs of DLA in accordance with DLAR 5030.8.

(viii) The participation of DLA personnel in widely attended gatherings of mutual interest to Government and industry, sponsored or hosted by industrial, technical, and professional associations (not by individual contractors), provided that they have been approved by the Office of the Assistant Secretary of Defense (Public Affairs).

(ix) Situations in which participation by DLA personnel at public ceremonial activities of mutual interest to industry, local communities, and DLA serves the interest of the Government, and acceptance of the invitation is approved by the Head of the primary level field activity (PLFA) or principal staff element (PSE).

(x) Contractor-provided transportation, meals, or overnight accommodations in connection with official business when arrangements for Government or commercial transportation, meals, or accommodations are clearly impracticable. In any such case, individuals shall report, in writing, the circumstances to their supervisors as soon as possible.

(xi) Attendance at promotional vendor training sessions when the vendor's products or systems are provided under contract to DoD and the training is to facilitate the utilization of those products or systems by DLA personnel.

(xii) Attendance or participation of DLA personnel in gatherings, including social events such as receptions, which are hosted by foreign governments or international organizations, provided that the acceptance of the invitation is approved by the Head of the PLFA or PSE.

(xiii) Situations in which, in the sound judgment of the individuals concerned or their immediate supervisors, the Government's interest will be served by DLA personnel participating in activities otherwise prohibited. In any such case, a written report of the circumstances shall be made in advance or, when an advance report is not possible, within 48 hours, by the individuals or the immediate supervisor to the appropriate Standards of Conduct Counselor or designated Deputy Counselor.

(xiv) Customary exchanges of gratuities between DLA personnel and their friends and relatives and the friends and relatives of their spouse, minor children and members of their household, where the circumstances make it clear that it is that relationship, rather than the business of the persons concerned, which is the motivating factor for the gratuity and where it is clear that the gratuity is not paid for by any source described in paragraph (2) of this section.

(4) *Reimbursements*

(i) The acceptance of accommodations, subsistence, or services, furnished in kind, in connection with official travel from sources other than those indicated in subparagraph 2 above, is authorized only when the individual is to be a speaker, panelist, project officer, or other bona fide participant in the activity attended, and when such attendance and acceptance are authorized by the order-issuing authority as being in the overall Government interest.

(ii) Where an employee is summoned to testify in an official capacity on behalf of a private party at a judicial proceeding, appearance will be on official time and travel expenses may be accepted from the court, authority, or party who caused the person to be summoned. In accordance with 5 U.S.C. 5751, the funds may be turned over to the agency and Government travel orders issued or the employee may use the funds to defray costs directly. Any excess funds must be returned to the party or paid into the U.S. Treasury as miscellaneous receipts. Any employee appearing on behalf of a private party not in an official capacity must use leave to do so and may retain any fees or expenses.

(iii) Except as indicated in paragraphs (i) and (ii) of this section, DLA personnel may not accept personal reimbursement

from any source for expenses incident to official travel, unless authorized by their supervisor consistent with guidance provided by the appropriate Standards of Conduct Counselor or Deputy Counselor pursuant to 5 U.S.C. 4111 or other statutory authority. Rather, reimbursement must be made to the Government by check payable to DLA. Personnel will be reimbursed by the Government in accordance with regulations relating to reimbursement.

(iv) In no case shall DLA personnel accept, either in kind or for cash reimbursement, benefits which are extravagant or excessive in nature.

(v) When accommodations, subsistence, or services in kind are furnished to DLA personnel by non-U.S. Government sources, consistent with this paragraph, appropriate deductions shall be reported and made in the travel, per diem, or other allowances payable.

(5) DLA personnel who receive gratuities, or have gratuities received on their behalf, in circumstances not in conformance with the standards of this DLAR shall promptly report the circumstances to their immediate supervisor for disposition determination and, if further action is required, to the appropriate Standards of Conduct Counselor or Deputy Counselor.

(f) *Procedures with Respect to Gifts from Foreign Governments are set forth in DLAR 1005.1.*

(g) *Prohibition of Contributions or Presents to Superiors.* DLA personnel shall not solicit a contribution from other DLA personnel for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from other DLA personnel subordinate to themselves. However, this paragraph does not prohibit voluntary gifts or contributions of nominal value on special occasions such as marriage, illness, transfer, or retirement, provided any gifts acquired with such contributions will be reasonable in value.

(h) *Use of Government Facilities, Property and Manpower.* DLA personnel shall not directly or indirectly use, take, dispose of, or allow the use, taking or disposing of, Government property or facilities of any kind, including property leased to the Government, for other than officially approved purposes. Government facilities, property, and manpower (such as telephones, stationery, stenographic and typing assistance, mimeograph and chauffeur services) shall be used only for official Government business. DLA personnel have a positive duty to protect and conserve Government property. These provisions do not preclude the use of Government facilities for approved activities in furtherance of DLA community relations, provided they do not interfere with military missions or Government business.

(i) *Use of Civilian and Military Titles or Positions in Connection with Commercial Enterprises*

(1) All DLA personnel, excluding special Government employees, are prohibited from using their titles or positions in connection with the promotion of any commercial enterprise or in endorsing any commercial product. This does not preclude author identification for materials published in accordance with DLAR 5400.13.

(2) All retired military personnel and all members of reserve components not on active duty are permitted to use their military titles in connection with commercial enterprises provided that they indicate their inactive, reserve or retired status. However, if such use of military titles in any way casts discredit on the Military Departments or DoD or gives the appearance of sponsorship, sanction, endorsement, or approval by the Military Departments or DoD, it is prohibited. In addition, the Military Departments may further restrict the use of titles including use by retired military personnel and members of reserve components, not on active duty, in overseas areas.

(j) *Outside Employment of DLA Personnel*

(1) DLA personnel shall not engage in outside employment or other outside activity, with or without compensation, that:

(i) Interferes with, or is not compatible with, the performance of their Government duties.

(ii) May reasonably be expected to bring discredit on the Government.

(iii) Is otherwise inconsistent with the requirements of this Part 1289, including the requirements to avoid actions and situations which reasonably can be expected to create the appearance of conflicts of interests.

(2) Enlisted military personnel on active duty may not be ordered or authorized to leave their post to engage in a civilian pursuit, business, or professional activity if it interferes with the customary or regular employment of local civilians in their art, trade, or profession.

(3) Off-duty employment of military personnel by an entity involved in a strike is permissible if the person was on the payroll of the entity prior to the commencement of the strike and if the employment is otherwise in conformance with the provisions of this Part 1289. After a strike begins and while it continues, no military personnel may accept employment by that involved entity at the strike location.

(4) DLA personnel are encouraged to engage in teaching, lecturing, and writing, except that:

(i) DLA personnel shall not, either for or without compensation, engage in activities that are dependent on information obtained as a result of their Government employment, except when the information has been published or is generally available to the public, or it will be made generally available to the public and the Director, DLA, gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

(ii) Employment by a DoD contractor is prohibited unless the circumstances are presented to and approval is obtained from the Standards of Conduct Counselor or Deputy Counselor stating that such employment does not constitute either a conflict or the appearance of a conflict of interest between the employee's duties and the outside employment.

(k) *Gambling, Betting, and Lotteries.* While on Government-owned, leased, or controlled property, or otherwise while on duty for the Government, DLA personnel shall not participate in any gambling activity, including a lottery or pool, a game for money or property, and the sale or purchase of a number slip or ticket. The only exceptions are:

(i) Vending stands licensed in accordance with 20 U.S.C. 107a(a)(5) to sell chances for any lottery authorized by state law and conducted by an agency of a state.

(ii) Activities which have been specifically approved by the Director, DLA.

(l) *Indebtedness.* DLA personnel shall pay their just financial obligations in a timely manner, particularly those imposed by law, such as Federal, state, and local taxes. DLA activities are not required to determine the validity or amount of disputed debts.

§ 1289.4 Definitions.

(a) *Deputy Standards of Conduct Counselor.* The Counsel of each DLA PLFA is designated Deputy Standards of Conduct Counselor.

(b) *DLA Personnel.* All civilian officers and employees, including special Government employees, of DLA and all active duty officers (commissioned and warrant) and enlisted members of the Army, Navy, Air Force, and Marine Corps, assigned to DLA.

(c) *Financial Interest.* Any wages, salaries, interest, dividends or any other

form of income or benefit received by virtue of the relationship; includes potential benefit, such as preemployment contacts with a potential future employer.

(d) *Gratuity.* Any gift, favor, entertainment, hospitality, transportation, loan, or any other tangible item, and any intangible benefits, for example, discounts, passes, and promotional vendor training, given or extended to or on behalf of DLA personnel, their immediate families or households for which fair market value is not paid by the recipient or the U.S. Government.

(e) *Special Government Employee.* A person who is retained, designated, appointed, or employed to perform with or without compensation, not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis. The term also includes a reserve officer while on active duty solely for training for any length of time, one who is serving on active duty involuntarily for any length of time, and one who is serving voluntarily on extended active duty for 130 days or less. It does not include enlisted personnel.

(f) *Standards of Conduct Counselor.* The Counsel, DLA, is designated the DLA Standards of Conduct Counselor.

§ 1289.5 Significant changes.

This Part 1289 has been revised to make general refinements of existing policy and functional responsibilities. The Part 1289 amends the categories of employees required to file DD Forms 1555, Confidential Statement of Affiliations and Financial Interests, Department of Defense Personnel; expands the information required to be submitted on a disqualification notice; alters the reporting requirements for suspected violations of the standards of conduct statutes and regulations; and provides for advice to military personnel leaving active military service and civilians leaving federal employment.

§ 1289.6 Responsibilities.

(a) *DLA Wide*

(1) *All DLA Employees* will:

(i) Adhere to the highest standards of honesty and integrity.

(ii) Bring suspected violations of a statute or standards of conduct imposed by this DLAR to the attention of the Standards of Conduct Counselor or Deputy Counselor.

(iii) Report to their immediate supervisor the acceptance of gratuities under the exceptions provisions of § 1289.3(E)(3) (x) and (xiii). Failure to submit these reports will be a basis for disciplinary action.

(iv) Call the appropriate provisions of Appendix C to the attention of any retired or former officer or employee with whom they deal, and advise that any apparent violations will have to be referred to the Department of Justice.

(2) *All DLA Supervisors* will:

(i) Review position descriptions annually to identify those positions which require submission of DD Forms 1555 by the incumbents. (See appendix A, paragraph II.)

(ii) Review DD Forms 1555 filed by their immediate subordinates to identify any conflict between the employee's private financial interest and official responsibilities, and complete the supervisor's statement contained therein. (See appendix A, paragraph IV K.)

(b) *HQ DLA*

(1) *The Heads of HQ DLA Principal Staff Elements* will:

(i) Remind all personnel in their Directorate/Office at least semiannually of their duty to comply with the required standards of conduct and advise employees that they may obtain clarification of this Part 1289 from the Office of Counsel, DLA (DLA–G).

(ii) Report promptly all violations of this Part 1289 and statutes cited herein to the Counsel, DLA.

(iii) Review and evaluate the DD Forms 1555 filed by their deputies prior to forwarding them to the Counsel, DLA.

(iv) Assure that required DD Forms 1555 are filed by officers and employees of their element and forwarded to the Counsel, DLA, in accordance with this Part 1289.

(2) *The Staff Director, Military Personnel, DLA* will:

(i) Assure that all military personnel, upon assignment to duty with DLA in the Metropolitan Washington area, are informed of the standards of conduct specified in and furnished a copy of this Part 1289.

(ii) By 15 October of each year submit a list to DLA–G of all military personnel within the activities furnished personnel services by DLA–M who are required, as of 30 September of that year, to submit a DD Form 1555.

(iii) Assure that all military officers furnished personnel services by DLA–M, upon separation or retirement from active duty when assigned to DLA, are informed of the standards of conduct governing former or retired military officers, and furnished copies of available information and guidance relating to service with DLA.

(3) *The Commander, DLA Administrative Support Center (DASC)* will:

(i) Assure that all civilian personnel, upon employment in any DLA activity furnished personnel services by DASC, are informed of the standards of conduct specified in and furnished a copy of this Part 1289.

(ii) By 15 October of each year, submit a list to DLA–G of all civilian employees in DLA activities furnished personnel services by DASC whose positions have been identified by their supervisors as requiring them, as of 30 September of that year, to submit DD Forms 1555.

(iii) Assure that all civilian employees furnished personnel services by DASC, upon their separation from Federal service, are informed of the standards of conduct governing former or retired civilian employees and furnished copies of available information and guidance.

(4) *The Counsel, DLA, is designated the DLA Standards of Conduct Counselor* and will:

(i) Provide additional clarification of standards of conduct and related laws, rules and regulations, and advice and assistance on all matters relating to conflict of interests.

(ii) Coordinate proper and final disposition of all problems that are not resolved by the supervisor or Deputy Counselor relating to conflict of interests.

(iii) Approve and retain DD Forms 1555 required to be submitted to Counsel after review by supervisors and in accordance with appendix A, paragraph IV K, to this Part 1289.

(iv) Receive reports of any favor, gratuity, or entertainment accepted by DLA personnel as being in the Government's interest, when required to be submitted to the Standards of Conduct Counselor under § 1289.3(E)(3)(xiii), and initiate or recommend action as appropriate.

(v) Review reports of violations of the standards of conduct statutes or regulations required to be submitted under paragraph (C)(2) (ii) and (iii) and assure proper action has been taken.

(vi) No later than 31 December of each year, notify the Office of the Secretary of Defense Standards of Conduct Counselor that all required DD Forms 1555 have been filed, reviewed, and any problems appropriately resolved, or explain the details of the outstanding cases.

(c) *Field Activities*

(1) *Commanders* will:

(i) Assure that all military and civilian personnel of their activities are informed upon employment or entry on duty of the standards of conduct specified in

this Part 1289, are furnished a copy of this Part 1289, and thereafter are reminded at least semiannually of their duty to comply with the required standards of conduct.

(ii) Assure that all employees, military and civilian, upon their separation from military or Federal service, are informed of the standards of conduct governing former or retired military or civilian employees and furnished copies of available information and guidance.

(iii) Take action to advise employees that they may obtain clarification of this DLAR from the PLFA Office of Counsel.

(iv) Review and evaluate the DD Forms 1555 submitted by their deputies prior to forwarding them to the Counsel, DLA.

(v) Assure that required DD Forms 1555 are filed by officers and employees of their activity, and forwarded to the appropriate Counselor or Deputy Counselor, in accordance with this Part 1289.

(2) *The Counsel for each DLA PLFA is Designated Deputy Standards of Conduct Counselor* and will:

(i) Provide advice and assistance on matters relating to standards of conduct and conflict of interests and related laws, rules and regulations arising at the activity.

(ii) Forward to DLA-G a report of each suspected violation of the standards of conduct statutes or regulations as required under § 1289.7(b) of this Part 1289.

(iii) Provide a summary of all reports of violations and the status of each investigation or other action taken to HQ DLA, ATTN: DLA-G. Such reports shall be furnished semiannually, as of 31 March and 30 September each year, and shall be forwarded to reach HQ DLA no later than 10 calendar days after the reporting date. RCS DLA(SA)2217(G) applies.

(iv) Review, approve, and retain DD Forms 1555 for personnel of the activity and all subordinate DLA activities after review by the supervisor.

(v) Establish a procedure to identify employees within the activity and subordinate activities who are required by this DLAR to file DD Forms 1555.

(vi) By 10 December of each year, notify DLA-G that all employees of the activity required to file DD Forms 1555 as of 30 September of that year have filed the form, and of any apparent conflicts of interest identified on the forms that have not been resolved.

(3) The responsibilities assigned PLFA Counsel may be delegated to the Counsel of a subordinate activity.

§ 1289.7 Procedures.

(a) *Information to Personnel.* Each DLA employee will be given a copy of this DLAR or implementing PLFA regulation and an oral standards of conduct briefing preceding employment or assumption of duties. Each individual receiving such briefing shall attest in writing to attending the briefing, reading the standards of conduct regulation, and comprehension of the requirements imposed. All DLA employees shall be reminded at least semiannually of their duty to comply with required standards of conduct.

(b) *Reporting Suspected Violations.* DLA personnel who have information which causes them to believe that a violation of the standards of conduct statutes or regulations has occurred shall report the matter promptly to the Standards of Conduct Counselor or Deputy Counselor, who shall:

(1) Evaluate the report and obtain such additional information as may be necessary.

(2) Refer the matter for investigation or other actions as appropriate, or advise the reporter that no further action will be taken.

(3) Forward a report of the matter and any action taken to the Counsel, DLA within 30 days.

(c) *Resolving Violations.* The resolution of real or potential conflicts of interest and standards of conduct violations shall be accomplished promptly by one or more measures, such as divestiture of conflicting interests, disqualification for particular assignments, changes in assigned duties, termination or other appropriate action, as provided by statute or administrative procedures. Disciplinary actions shall be in accordance with established personnel procedures.

(d) *Statements of Affiliations and Financial Interests (DD Form 1555).* The following DLA personnel are required to submit initial and annual Statements of Affiliations and Financial Interests, DD Form 1555, unless they are expressly exempted. (See Appendix A for details on applicability and requirements.)

(1) All civilian DLA personnel not in the Senior Executive Service or classified as a GS–16 or above, who are paid at a rate equal to or in excess of the minimum rate prescribed for employees holding the grade of GS–16.

(2) Commanders, Deputy Commanders, and Counsel of PLFAs and Heads and Deputy Heads of PSEs, except those required to file SF 278s.

(3) DLA personnel, civilian or military, regardless of grade or rank, whose official responsibilities require the exercise of judgment in making a Government decision or in taking Government action in regard to activities in which the final decision or action may have a significant economic impact on the interests of any non-Federal entity, including individuals and their supervisors who:

(i) Determine requirements or descriptions of supplies or services to be purchased.

(ii) Determine technical requirements or specifications and pertinent drawings.

(iii) Determine Government estimates of cost.

(iv) Select or solicit sources of supply.

(v) Conduct preaward surveys, or evaluate, appraise, select, or approve contractors, subcontractors, or contractor and subcontractor facilities.

(vi) Determine reasonableness of prices.

(vii) Issue service orders, task orders, purchase orders, delivery orders, calls against blanket purchase agreements or indefinite delivery type contracts; orders using imprest funds; or modifications to contracts.

(viii) Purchase, rent, lease, or otherwise obtain supplies or services from, or dispose of or sell supplies to, non-Government entities.

(ix) Award or approve the award of contracts or grants.

(x) Administer contracts or grants.

(xi) Determine, as part of quality control or quality assurance functions, to accept or reject contractors' systems, products, or services.

(4) A decision under paragraph (3) of this section to require an individual below the grade of GS–13 or O–5 to file a DD Form 1555 is subject to the approval of the PLFA Commander or PSE Head and the concurrence of the Standards of Conduct Counselor or Deputy Counselor.

(5) Special Government employees (except those exempted in appendix A).

(e) Additional clarification of the standards of conduct set forth in this DLAR and related statutes, rules, and regulations may be obtained from the Standards of Conduct Counselor and Deputy Counselors designated in this Part 1289.

(f) Preemployment and postemployment reporting requirements concerning Defense related employment are covered in DLAR 7700.3.

Appendix A.—Requirements for Submission of DD Form 1555 Statements

I. *DLA PERSONNEL REQUIRED TO SUBMIT STATEMENTS.* DLA personnel required to file Statements of Affiliations and Financial Interests (DD Form 1555) are those indicated in § 1289.7(d) of the basic Part 1289.

II. *REVIEW OF POSITIONS.* Immediate supervisors shall review each civilian and military position under their supervision at the time of the incumbent's annual performance rating, determine whether the position requires the incumbent to file a DD Form 1555, and will notify each employee of the determination. The position description of each position so reviewed shall include a statement advising whether or not the incumbent must file a DD Form 1555.

III. *EXCLUSION OF POSITIONS.* Heads of PLFAs and PSEs may determine that the submission of a DD Form 1555 is not necessary for certain positions otherwise included in § 1289.7(d) because of the remoteness of any impairment of the integrity of the Government and the degree of supervision and review of the incumbents' work. In such cases the position description will include a statement of the determination and that the incumbent need not file a DD Form 1555.

IV. *FORM AND MANNER OF SUBMISSION OF DD FORMS 1555.* A. *Form of Submission.* DD Form 1555 will be used by all DLA personnel required by § 1289.7 of this Part 1289 to submit Statements of Affiliations and Financial Interests. If the officer or employee makes an entry other than "None" in blocks 5 thru 10 of DD Form 1555, a signed statement by the officer or employee that none of the interests listed constitutes a conflict of interest in the performance of duties in the present position will be attached to the form when forwarded to the supervisor for review. If this statement cannot be made, the apparent conflict of interest will be resolved by the supervisor (see paragraph IV K of this appendix).

B. *Time of Submission.* 1. Employees will file a DD Form 1555 for review and approval by the appropriate Standards of Conduct Counselor or Deputy Counselor prior to the assumption of a new position or duties that require filing a DD Form 1555.

2. DD Forms 1555 shall be filed by 31 October each year for all affiliations and financial interests as of 30 September of that year. Even though no changes occur, a new and complete DD Form 1555 is required to be filed each year.

3. *Excusable Delay.* When required by reason of duty assignment or infirmity, a supervisor may grant an extension of time with the concurrence of the Standards of Conduct Counselor or Deputy Counselor. Any extension in excess of 30 days requires the concurrence of the Counsel, DLA. Any late DD Forms 1555 shall include appropriate notation of any extension of time granted hereunder.

C. *To Whom Submitted*

1. *HQ DLA, DASC, and PLFAs without Assigned DLA Counsel.* a. Heads of PSEs required to file DD Forms 1555 will submit them through the Counsel, DLA to the Director, DLA.

b. Deputy Heads of PSEs required to file DD Form 1555 will submit them to the Head of the PSE for review and evaluation. After resolution of any conflict, the DD Forms 1555 will be forwarded to the Counsel, DLA.

c. Other officers and employees of HQ DLA, DASC, DDC, and PLFAs without assigned DLA Counsel, and their subordinate activities, will submit DD Forms 1555 to their immediate supervisor for review and evaluation. Upon completion of their review and resolution of any conflicts, supervisors will forward the DD Forms 1555 to the Counsel, DLA.

2. *Field Activities with Assigned DLA Counsel.* a. Heads of PLFAs required to file DD Forms 1555 will submit them through the Counsel, DLA to the Director, DLA.

b. Deputy Heads of PLFAs required to file DD Forms 1555 will submit them to the Head of the PLFA for review and evaluation. After resolution of any conflict, the forms will be submitted to the Counsel, DLA.

c. Other officers and employees of PLFAs or subordinate activities required to file DD Forms 1555 will submit them to their immediate supervisors for review and evaluation. After resolution of any conflict, the forms will be forwarded to the appropriate Deputy Standards of Conduct Counselor.

d. Counsel for PLFAs will submit DD Forms 1555 to the PLFA Commander for review and evaluation. After resolution of any conflict, the forms will be forwarded to the Counsel, DLA.

e. Heads of DLA activities subordinate to PLFAs, when required to file a DD Form 1555, will submit the form to the Commander of the PLFA who will review and evaluate, and forward it to the PLFA Deputy Counselor after resolution of any conflict.

f. Counsel for DLA activities subordinate to a PLFA will submit DD Forms 1555 to the activity Commander for review, evaluation and resolution of any conflict. The forms will then be forwarded to the Counsel of the PLFA.

3. *Detailed Employees.* Agreements with other DoD components and Government agencies shall contain a requirement that the other component agency shall, within 60 days, forward to the DLA Standards of Conduct Counselor a copy of the detailed individual's DD Form 1555, if required, and notice concerning the disposition of any conflict or apparent conflict of interests indicated.

D. *Information Required.* Each reporting officer or employee is required to report on DD Form 1555 in the same manner as an interest of the individual, information with respect to financial and employment interests of the individual's spouse or minor child, or any member of the individual's household. For the purpose of this Part 1289, connection with or interest in educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are to be included in a person's DD Form 1555.

E. *Information Not Required to be Submitted.* DLA personnel are not required to submit on a DD Form 1555 any information relating to their connection with or interest in a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization, or a similar organization not conducted as a business for profit. Ownership of personal savings or checking accounts in financial institutions, shares in credit unions or savings and loan associations, and life or property insurance policies and shares in widely held, diversified mutual funds or regulated investment companies need not be reported.

F. *Information Not Known by DLA Personnel.* DLA personnel shall request submission on their behalf of required information known only to other persons, for example, holdings of a spouse or other member of the household, executor of any estate, or trustee. The submissions may be made with a request for confidentiality that will be honored even if it includes a limitation on disclosure to the DLA employee concerned.

G. *Confidentiality of DD Forms 1555 of DLA Personnel.* Each DD Form 1555 shall be held in confidence. Information from a DD Form 1555 may not be disclosed except as the Director, DLA, or the Office of Personnel Management may determine for good cause. "Good cause" includes a determination that the record or any part of the record must be released under the Freeedom of Information Act. Persons designated to review the DD Forms 1555 are responsible for maintaining the statements in confidence and shall not allow access to or disclosure from the DD Forms 1555 except to carry out the purpose of this Part 1289.

H. *Effect of Statements on Other Requirements.* The DD Form 1555 required of DLA personnel is in addition to, and not in substitution for, any similar requirement imposed by statute, executive order, or regulation. Submission of DD Form 1555 does not permit DLA personnel to participate in matters in which their participation is prohibited by statute, executive order, or regulation.

I. *Special Government Employees (as defined in § 1289.4(e) of this Part 1289)*

1. Each special government employee shall, prior to appointment, file a DD Form 1555.

2. The following are exempted categories of special Government employees who are not required to file DD Forms 1555 unless specifically requested to do so:

a. Physicians, dentists, and allied medical specialists engaged only in providing service to patients.

Veterinarians providing veterinary services relating to animal husbandry or treatment only.

c. Lecturers participating in educational activities.

d. Chaplains performing only religious services.

e. Individuals in the motion picture and television fields who are utilized only as narrators or actors in DLA productions.

f. Members of selection panels for NROTC candidates.

g. A special Government employee who is not a "consultant" or "expert" as those terms are defined in the Federal Personnel Manual, chapter 304.

J. Individuals, other than those identified in § 1289.7(d) of Part 1289, may be required to submit such statements if it is believed essential to protect the integrity of the Government and avoid employee involvement in a possible conflict of interests situation.

K. *Review of DD Form 1555* 1. The immediate supervisor initially reviews DD Form 1555 to assure that there is no conflict or apparent conflict between the employee's private financial interests and official responsibilities. Heads of PSEs and PLFAs will perform the initial review of their deputies' DD Form 1555 before forwarding them to the Counsel, DLA. After review and completion of the supervisor's statement, the DD Form 1555 should be forwarded to the appropriate Standards of Conduct Counselor or Deputy Counselor for final review and filing. A section on the DD Form 1555 is provided for this purpose.

2. Whenever the supervisor's review of a DD Form 1555 discloses a conflict or an apparent conflict of interest, the employee concerned will be given an opportunity to explain the conflict or apparent conflict to the immediate supervisor. Resolution of a conflict will be made under § 1289.7(c) of this Part 1289. A notice of disqualification must identify not only the company in which there is a financial interest, but also the parent, subsidiaries and affiliates, if any, and their addresses. The format for the notice is attached as enclosure 2. If the conflict cannot be resolved by the supervisor, it will be forwarded along with a copy of the employee's current position description to the appropriate Standards of Conduct Counselor or Deputy Counselor for resolution.

3. If the conflict is still not resolved after review and consideration of the employee's explanation, all relevant information concerning the matter will be submitted to DLA, ATTN: DLA–G, for review by the Counsel, DLA, and submission to the Director, DLA, for resolution, if necessary.

Appendix B—Notice of Disqualification

Subject: Disqualification

By reason of financial interests in the companies listed below, I am disqualified from taking any action which might have an impact upon them, their subsidiaries or affiliates. I have listed in each case, to the best of my knowledge and belief, all subsidiaries and affiliates. In the event any matter arises which would ordinarily be referred to me, which may have an impact upon the interests of any of these companies, their subsidiaries, or affiliates, it should be brought directly to the attention of

List of companies, subsidiaries and affiliates:

Parent: Tenneco Inc.: 1010 Milam, Houston, Texas 77001
Subs'y: Tenneco Corporation (Subsidiary of Tenneco Inc.) 1010 Milam, Houston, Texas 77001
Tenneco Oil Company (Subsidiary of Tenneco Corporation), 1010 Milam, Houston, Texas 77001
Tenneco Chemicals Inc.: (Subsidiary of Tenneco Corporation) Park 80 One, Saddle Brook, New Jersey 07662
Tenneco West Inc.: (Subsidiary of Tenneco Corporation) 201 New Stine Road, Bakersfield, California 93302
East Tennessee Natural Gas Company, Knoxville, Tennesee
Midwestern Gas Transmission Company
Monroe Auto Equipment Company, Monroe, Michigan
Newport News Ship & Drydock Company, Newport News, Virginia
Packaging Corporation of America, Evanston, Illinois
Kern County Land Company, Houston, Texas
J. I. Case Company, Racine, Wisconsin
Petro-Tex Chemical Corporation, Houston, Texas
Case Construction Equipment Company, Philadelphia, Pennsylvania
Lydex Automotive Exhaust Systems, Denmark
Walker Mfg Company Racine, Wisconsin
Parent: Sears Roebuck & Company, Sears Tower, Chicago, Illinois 60684
Subs'y: Sears Roebuck Acceptance Corporation (Subsidiary of Sears) One Customs House Square, Wilmington, Delaware 19899
Allstate Insurance Company (Subsidiary of Sears) Northbrook, Illinois
Homart Development Company, Florence, Kentucky

Appendix C—Digest of Laws

Conflict of Interest Laws

I. *18 U.S.C. 203.* Subsection (a) prohibitions are encompassed by prohibitions in 18 U.S.C. 205 below. Subsection (b) makes it unlawful to offer or pay compensation, the solicitation or receipt of which is barred by subsection (a).

II. *18 U.S.C. 205* A. This section prohibits Government personnel from acting as agent or attorney for anyone else before a department, agency, or court in connection with any particular matter in which the United States is a party or has a direct and substantial interest.

B. The following exemptions are allowed:

1. Section 205 does not prevent Government personnel from giving testimony under oath, or making statements required to be made under penalty of perjury or contempt, or from representing another person, without compensation, in a disciplinary, loyalty, or other personnel matter.

2. Section 205 also authorizes a limited waiver of its restrictions and those of section 203 for the benefit of officers or employees, including special Government employees, who represent their own parents, spouse, or child, or a person or estate they serve as a fiduciary. The waiver is available only if approved by the official making appointments to the position. In no event does the waiver extend to representation of any such person in matters in which the employee has participated personally and substantially or which, even in the absence of such participation, are the subject of the employee's official responsibility.

3. Finally, section 205 gives the Head of a department or agency the authority to allow special Government employees to represent their regular employers or other outside organizations in the performance of work under a Government grant or contract, if the department or agency head certifies and publishes in the **Federal Register** that the national interest requires such representation.

III. *18 U.S.C. 208* A. Subsection (a) requires executive branch personnel to refrain from participating as Government personnel in any matter in which they, their spouses, minor children, or partners have financial interests or in which businesses or nonprofit organizations with which such personnel are connected or are seeking employment have financial interests. A "particular matter" may be less concrete than an actual contract, but is something more specific than rule making or abstract scientific principles. The test is whether the individuals might reasonably anticipate that their Government action, or the decisions in which they participate or with respect to which they advise, will have a direct and predictable effect upon such financial interests.

B. Subsection (b) permits agencies to grant an ad hoc exemption from subsection (a) if the outside financial interest is deemed not substantial enough to affect the integrity of Government services. Categories of financial interests may also be made nondisqualifying by a general regulation published in the **Federal Register.**

IV. *18 U.S.C. 209.* Subsection (a) prevents executive branch personnel from receiving, and anyone from paying them, any salary or supplementation of salary from a private source as compensation for their Government service. Subsection (b) permits participation in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer. Subsection (c) exempts special Government employees and anyone serving the Government without compensation. Subsection (d) exempts contributions, awards, or other expenses under the Government Employees Training Act (5 U.S.C. 4101, et seq.).

V. *37 U.S.C. 801 (a), APPLICABLE TO REGULAR NAVY AND MARINE CORPS OFFICERS.* A Regular Navy or Regular Marine Corps Officer on active duty may not be employed by anyone furnishing naval supplies or war materials to the United States. If such an officer is so employed, he is not entitled to any payment from the United States during that employment.

VI. *18 U.S.C. 207, APPLICABLE TO FORMER DOD PERSONNEL*

A. Subsection (a) does two things: It bars a former DoD employee from acting as agent, attorney, or representative for anyone in any formal or informal appearance before the Government in any particular matter involving specific parties, if the employee was personally and substantially involved in the particular matter while at DoD. It also bars a former DoD employee from making any oral or written communication to the Government on behalf of anyone else if there is an intent to influence the Government in such a particular matter. Furnishing scientific and technological information to the Government is exempted from this restriction. The restriction covers all former DoD regular personnel, military or civilian, regardless of grade and all special Government employees. See 5 CFR 737.5 (44 FR 19978, April 3, 1979).

B. Subsection (b)(i) is a 2-year bar against certain activities. This restriction has the same two basic patterns as the lifetime bar

except that it applies to matters that were under a former employee's "official responsibility" while at DoD. That is, for 2 years after leaving DoD, a former employee may not act as agent, attorney, or representative for anyone in a formal or informal appearance before the Government or make any oral or written communication with the intent to influence the Government if the subject matter is something that was actually pending under that employee's official responsibility, within a period of 1 year prior to the termination of such responsibility. Furnishing scientific and technological information to the Government is exempted from this restriction. This restriction covers all former DoD regular personnel, military or civilian, regardless of grade and all special Government employees. See 5 CFR 737.7 (44 FR 19981, April 3, 1979).

C. Subsection (b)(ii) bars a former DoD employee from aiding or assisting in any representational activities that are prohibited under the 2-year bar on representing discussed above. If an employee would be barred from actually doing the representing (under the bar on representing), he or she is also barred from helping someone else (who is not under that bar on representing) do that kind of work. Furnishing scientific and technological information to the Government is exempted from this restriction. This restriction is effective 1 July 1979 and applies only to Executive Schedule appointees and military officers at pay grades O–7 and above. Effective 1 October 1979 this restriction may be extended by the Office of Government Ethics to specific GS–17 and 18 positions. In addition, the restriction could also be applied to selected positions below the GS–17 level if the Office of Government Ethics finds they are substantially similar. See 5 CFR 737.9 (44 FR 19981, April 3, 1979).

Note.—Amendments are currently pending before Congress that would change the scope and coverage of this provision.

D. Subsection (c) bars a former DoD employee from making any personal, oral, or written contact to influence DoD for 1 year after he or she leaves the department. This provision operates *regardless* of the former employee's prior involvement in the subject matter of the contact, except that furnishing scientific and technological information to the Government is exempted from this restriction. It is known as the 1-year "cooling-off" period. This restriction is effective on 1 July 1979 to Executive Schedule appointees and military officers at grades O–7 and above. Effective 1 October 1979, the restriction may be extended by the Office of Government Ethics to anyone paid at a GS–17 level, except a special Government employee serving less than 60 days a year. In addition, the restriction could also be applied to positions below the GS–17 level by the Office of Government Ethics. See 5 CFR 737.11 (44 FR 19983, April 3, 1979).

Note.—Amendments pending in Congress would modify the coverage of this provision.

E. Partners of officers and employees are also prohibited from acting as agent or attorney for anyone other than the United States before any Federal agency or court in connection with any matter in which the United States is a party or has a direct and substantial interest and in which the officer or employee participated personally and substantially or which is the subject of the officer's or employee's official responsibility.

F. The prohibition in subsection (c) does not apply to appearances or communications on matters of a personal or individual nature or to making a statement or giving testimony in an area based on the former officer's or employee's special expertise.

G. In the event of a potential violation, the head of the department or agency is required to provide notice and an opportunity for a hearing. Any disciplinary action taken as a result is subject to review in an appropriate United States district court.

VII. *SUMMARY OF LAWS PARTICULARLY APPLICABLE TO RETIRED REGULAR OFFICERS*

A. *Prohibited Activities* 1. *Claims.* A retired Regular officer of the Armed Forces may not, within 2 years of his retirement, act as agent or attorney for prosecuting any claim against the Government, or assist in the prosecution of such a claim, or receive any gratuity or any share of or interest in such a claim, in consideration for having assisted in the prosecution of such a claim, if such claim involves the Military Department in whose service he holds a retired status. Nor may a retired Regular officer at any time act as an agent or attorney for prosecuting any claim against the Government, or assist in prosecution of such claim, or receive any gratuity or any share of or interest in such claim, in consideration for having assisted in the prosecution of such claim, if such claim involves any subject matter with which he was directly connected while on active duty (see 18 U.S.C. 283).

2. *Selling* a. A retired Regular officer is prohibited, at all times, from representing any person in the sale of anything to the Government through the Military Department in whose service he holds a retired status (see 18 U.S.C. 281).

b. "Payment may not be made from any appropriation, for a period of three years after his name is placed on that list, to an officer on a retired list of the Regular Army, the Regular Navy, the Regular Air Force, the Regular Marine Corps, the Regular Coast Guard, the Environmental Science Services Administration, or the Public Health Service, who is engaged for himself or others in selling, or contracting, or negotiating to sell, supplies or war materials to an agency of the Department of Defense, the Coast Guard, the Environmental Science Services Administration, or the Public Health Service." (Sec. 37 U.S.C. 801(c) as amended October 9, 1962, P.L. 87–777, formerly 5 U.S.C. 59(c)). (**Note.**—The Environmental Science Services Administration was abolished on October 3, 1970, and its functions were transferred to the National Oceanic and Atmospheric Administration.)

c. For the purpose of this statute, "selling" means:

(1) Signing a bid, proposal, or contract.

(2) Negotiating a contract.

(3) Contacting an officer or employee of any of the foregoing departments or agencies for the purpose of:

(a) Obtaining or negotiating contracts.

(b) Negotiating or discussing changes in specifications, price, cost allowances, or other terms of a contract.

(c) Settling disputes concerning performance of a contract.

(4) Any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract therefor is subsequently negotiated by another person.

3. Neither these statutes nor this directive preclude a retired Regular officer from accepting employment with private industry solely because his employer is a contractor with the Government.

B. *Exemptions from Law Applying to Officers on Active Duty.* A retired Regular officer continues to be an "officer" of the United States for purposes of many statutes. However, the laws applying to DoD personnel listed above do not normally apply to retired officers not on active duty who are not otherwise officers or employees of the United States.

VIII. *LAWS APPLICABLE TO DOD PERSONNEL.* There are legal prohibitions concerning the following activities which may subject present and former DoD personnel to criminal or other penalties:

A. Aiding, abetting, counseling, commanding, inducing, or procuring another to commit a crime under any criminal statute (see 18 U.S.C. 201).

B. Concealing or failing to report to proper authorities the commission of a felony under any criminal statute if such personnel knew of the actual commission of the crime (see 18 U.S.C. 4).

C. Conspiring with one or more persons to commit a crime under any criminal statute or to defraud the United States, if any party to the conspiracy does any act to effect the object of the conspiracy (see 18 U.S.C. 371).

D. Lobbying with appropriated funds (see 18 U.S.C. 1913).

E. Disloyalty and striking (see 5 U.S.C. 7311, 18 U.S.C. 1918).

F. Disclosure of classified information (see 18 U.S.C. 798, 50 U.S.C. 783); and disclosure of confidential information (see 18 U.S.C. 1905).

G. Habitual use of intoxicants to excess (see 5 U.S.C. 7352).

H. Misuse of a Government vehicle (see 31 U.S.C. 638 (c)(2)).

I. Misuse of the franking privilege (see 18 U.S.C. 1719).

J. Deceit in an examination or personnel action in connection with Government employment (see 18 U.S.C. 1917).

K. Committing fraud or making false statements in a Government matter (see 18 U.S.C. 1001).

L. Mutilating or destroying a public record (see 18 U.S.C. 2071).

M. Counterfeiting and forging transportation requests (see 18 U.S.C. 508).

N. Embezzlement of Government money or property (see 18 U.S.C. 641); failing to account for public money (see 18 U.S.C. 643); and embezzlement of the money or property of another person in the possession of an employee by reason of his Government employment (see 18 U.S.C. 654).

O. Unathorized use of documents relating to claims from or by the Government (see 18 U.S.C. 285).

P. Certain political activities (see 5 U.S.C. 7321–7327 and 18 U.S.C. 602, 603 and 607). These statutes apply to civilian employees; regulations govern military personnel.

Q. Any person who is required to register under the Foreign Agents Registration Act of 1938 (see 18 U.S.C. 219) may not serve the Government as an officer or employee. The section does not apply to Reserves who are not on active duty or who are on active duty for training, or a special Government employee in any case in which the department head certifies to the Attorney General that his employment by the United States Government is in the national interest.

R. Soliciting contributions for gifts, giving gifts to superiors, or accepting gifts from subordinates (see 5 U.S.C. 7351).

S. Acceptance of excessive honorariums (see 2 U.S.C. 441(i)).

T. Acceptance, without statutory authority, of any office or title, of any kind whatever, from any king, prince, or foreign state by any person holding any office of profit in or trust of the Federal Government, including all retired military personnel. (U.S. Constitution, Art. I, Sec. 9.; Pub. L. 95–105, title U S 509(a)–(c), 17 Aug. 1977).

U. Failure to file DD Form 1787, Report of DoD and Defense Related Employment, required of certain present and former personnel paid at a rate equal to or greater than the minimum rate paid for a GS–13 who, within 3 years preceding employment with DLA or 3 years subsequent to employment with DLA, were or are employed by a defense contractor. (Pub. L. 91–121, section 410, as amended by Pub. L. 94–273, Section 4(4); Dod Dir. 7700.15, DLAR 7700.3).

[FR Doc. 79-20306 Filed 6-29-79; 8:45 am]

BILLING CODE 3620-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR PART 165

[CCGD3-79-6-R]

Establishment of Safety Zone in Lower Hudson River, New York

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Safety Zone Regulations establishes a portion of the water of the Lower Hudson River, New York as a Safety Zone. This Safety Zone is established to protect vessels from possible damage due to the presence of five barges carrying fireworks and the presentation of a fireworks display in the Lower Hudson River, New York. No vessel may enter or remain in a Safety Zone without the permission of the Captain of the Port.

EFFECTIVE DATE: This amendment is effective on July 4, 1979.

FOR FURTHER INFORMATION CONTACT: Captain J. L. Fleishell, Captain of the Port, New York, Building 109, Governors Island, New York, New York (212) 668–7917.

SUPPLEMENTARY INFORMATION: This information is issued without publication of a notice of proposed rule making and this amendment is effective in less than 30 days from the date of publication because the short time between scheduling of the event and its occurrence made such procedures impractical. Extensive local public notice has been given.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Lieutenant Junior Grade Ristaino, Project Manager, Captain of the Port, New York, New York; and Commander James L. Walker, Project Attorney, Legal Office, Third Coast Guard District, New York, New York.

In consideration of the foregoing, Part 165 of Title 33 of the Code of Federal Regulations is amended by adding § 165.304 to read as follows:

§ 165.304 Lower Hudson River, New York.

That area of the waters of the Hudson River south of a line drawn between the apex of "General Grants' Tomb" and the "White Stack" at Edgewater, New Jersey (NOAA Chart 12341) and north of the line between 40°47'27.9" N, 73°59'48.2" (approximately from the base of the northern breakwater at the 79th Street Marina to the tank farm on the opposite shore) is established as a security zone from 8:15 p.m. E.S.T. to 9:45 p.m. E.S.T. July 4, 1979.

AUTHORITY: (86 Stat. 427 (33 U.S.C. 1224); 49 CFR 1.46 (n)(4)).

Dated: June 20, 1979.

J. L. Fleishell,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 79-20268 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD5-79-06R]

Chesapeake Bay, Mill Creek, Hampton, Va.; Safety Zone Regulations

AGENCY: U.S. Coast Guard.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's safety zone regulations establishes a safety zone in a portion of the waters of Mill Creek, extending 150 meters from the eastern shore, just north of Fort Monroe, Hampton, Virginia. This safety zone is deemed necessary to safeguard persons during the discharge of fireworks from the shoreline on July 4, 1979 as part of the Fort Monroe annual Independence Day Ceremonies. Fireworks will be discharged from 9:20 P.M. to 9:55 P.M. on July 4, 1979; or at these times on July 5 or 6, 1979 in the event of inclement weather. This safety zone regulation will require persons to comply with the general safety zone regulations contained in 33 CFR Part 165.20, which prohibits persons from entering or remaining in the safety zone without authorization from the Captain of the Port.

DATES: This amendment is effective beginning 9:00 P.M. July 4, 1979 and terminates at 10:00 P.M. July 4, 1979. In the event inclement weather postpones the scheduled fireworks display, this amendment will be effective from 9:00 P.M. to 10:00 P.M. on either July 5, 1979 or July 6, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander H. F. Hirsh III, Chief, Port Operations Department, USCG Marine Safety Office, Hampton Roads, Norfolk Federal Building, 200 Granby Mall, Norfolk, Virginia 23510, Tele: 804–441–3307, FTX: 827–3307.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rulemaking and this amendment is effective in less than 30 days from the date of publication because public procedures on this amendment are impractical due to the insufficient time until the scheduled fireworks display.

DRAFTING INFORMATION: The principal person involved in the drafting of this rule is: Lieutenant Commander H. F. Hirsh III, Chief, Port Operations Department, USCG Marine Safety Office, Hampton Roads, Norfolk Federal Building, 200 Granby Mall, Norfolk, Virginia. The project attorney is Lieutenant Mark Goodwin, c/o Commander, Fifth Coast Guard District (dl), Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705.

In consideration of the above, Part 165 of Title 33 of the Code of Federal Regulations is amended to read as follows:

§ 165.520 Chesapeake Bay, Hampton Roads, Mill Creek, Hampton, Va.

The area enclosed by the following boundary is a safety zone—a line beginning at 37°01'06" N. Latitude 76°18'07" W. Longitude to 37°01'08" N. Latitude 76°18'16" W. Longitude thence south to 37°00'41" N. Latitude 76°18'23" W. Longitude to 37°00'39" N. Latitude

76°18'16" W. Longitude thence along the shoreline to the point of beginning. This safety zone will be effective from 9:00 P.M. to 10:00 P.M. on July 4, 1979. In the event of inclement weather, this safety zone will be effective from 9:00 P.M. to 10:00 P.M. on either July 5, 1979 or July 6, 1979. The general regulations governing safety zones as contained in 33 CFR 165.20 apply.

Authority: (92 Stat. 1475 (33 USC 1225); 49 CFR 1.46(n)(4)).

Dated: June 14, 1979.

C. R. Thompson,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads, VA.

[FR Doc. 79-20269 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1259-4]

Revision to the New Jersey State Implementation Plan; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction to final rule.

SUMMARY: In FR Doc. 79-17269 appearing at page 31976 in the **Federal Register** of June 4, 1979, make the following corrections.

1. Paragraph (b) of § 52.1601 appearing at the top of the third column on page 31979 is corrected in the fourth and fifth lines of that paragraph by replacing the parenthetical phrase, "(the date of publication of EPA's final action on this revision request)," with the date designation, "June 4, 1979."

2. On page 31979, in § 52.1570 appearing in the second column, the paragraph designation "(c)(20)" is corrected to read "(c)(21)".

EFFECTIVE DATE: July 2, 1979.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, (212) 264-2517.

(Section 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7601)).

Dated: June 25, 1979.

Eckardt Beck,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 79-20261 Filed 6-29-79; 8:45 am]

BILLING CODE 6561-01-M

40 CFR Part 52

[FRL 1262-3]

Approval and Promulgation of Implementation Plans; Statutory Restriction on New Sources Under Certain Circumstances for Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Interpretive rule.

SUMMARY: In the 1977 amendments to the Clean Air Act, Congress established a statutory restriction on construction of certain major sources of air pollution after June 30, 1979, if state implementation plans are inadequate or are not adequately carried out for nonattainment areas. This interpretive rule codifies the statutory restriction in the Code of Federal Regulations and the state implementation plans. In the proposed rules section of this issue of the Federal Register, EPA is proposing additional language to clarify how the statutory restriction will apply.

EPA is now in the process of reviewing and approving revised plans. Although few plans have been approved, EPA expects no widespread impact from the restriction on new sources. This is because permit applications filed on or before June 30, 1979, are not subject to the restriction. For applications filed after that date, which are subject to the restriction, the administrative process will take several months after June 30 before a permit can be approved and issued regardless of the restriction. Most plans can be approved and the restriction ended before sources subject to the restriction are ready to begin construction. For plans that contain minor deficiencies, EPA proposes to approve them and cause the restriction to end, on the condition the states submit corrections on specified schedules. Therefore, EPA does not expect major disruptions of industrial activities where states are making reasonable and expeditious efforts toward submitting an approvable state implementation plan revision.

DATES: The provisions stated in this notice are applicable to construction permits applied for after June 30, 1979.

FOR FURTHER INFORMATION CONTACT: The appropriate EPA regional office listed at 44 FR 20372 (April 4, 1979), or the following headquarters office: G. T. Helms, Chief, Control Programs Operations Branch, Control Programs Development Division, Office of Air Quality Planning and Standards (MD-15), Research Triangle Park, North Carolina 27711 (919) 541-5365 or 541-5226.

SUPPLEMENTARY INFORMATION:

I. Background

In the 1970 amendments to the Clean Air Act,[1] Congress directed EPA to establish primary national ambient air quality standards (NAAQS) to protect the public health, and secondary NAAQS to protect the public welfare, and directed the states to develop and adopt state implementation plans (SIPs) to attain and maintain the standards. EPA was given responsibility for reviewing SIPs and either approving or disapproving them. In 1971 EPA promulgated NAAQS for several pollutants.[2] SIPs were developed and placed into effect.

In 1971, EPA promulgated regulations requiring each plan to provide for preconstruction review of proposed new sources and modifications of existing sources, to prevent "interfer[ence] with the attainment or maintenance of a national standard."[3] Plan provisions were approved or promulgated for each state plan to satisfy this requirement.

The Act required attainment of the NAAQS in most regions by 1975, with some extensions until 1977. By 1976 it became apparent that, despite significant progress, SIPs were inadequate to achieve the NAAQS in many areas of the country. Questions arose as to whether, and under what circumstances, new stationary sources might legally be permitted to construct in areas where the NAAQS were not being met. In response to these questions, EPA published its Emission Offset Interpretative Ruling.[4] The Ruling interpreted the Act, EPA regulations, and each state plan, so as to allow new construction in areas where NAAQS were violated if stringent conditions were met that would assure further progress toward attainment of the standards.

In August 1977 Congress amended the Act to establish a statutory approach permitting growth in polluted areas, while still assuring attainment of the NAAQS by specific deadlines.[5] Congress instructed each state to list those areas where NAAQS were still

[1] The Clean Air Act, as amended, is codified at 42 U.S.C. 7401 *et seq.*

[2] 40 CFR Part 50.

[3] 40 CFR 51.18(b).

[4] Originally promulgated on December 21, 1976, the Ruling was recently revised. 40 CFR Part 51, Appendix S, as revised 44 FR 3274 (January 16, 1979).

[5] Sections 107(d) and 172 of the Act (42 U.S.C. 7407(d) and 7502); sections 129(a) and (c) of the 1977 Amendments, Pub. L. No. 95-95 (notes under 42 U.S.C. 7502).

not attained as of August 7, 1977 (nonattainment areas), and required EPA to promulgate the list with any necessary changes.[6] Each state then had to submit a SIP revision by January 1, 1979, providing for attainment of the NAAQS as expeditiously as practicable, and for primary standards no later than the end of 1982 (or the end of 1987 for areas with particularly difficult ozone or carbon monoxide problems).

Congress also provided that EPA's Offset Ruling would govern new source construction before July 1, 1979. From that date forward, however, proposed major sources are to be reviewed under the provision of a revised SIP that meets the requirements of Part D, Title I, of the Act. If, as of July 1, 1979, a state does not have a revised plan in effect that satisfied the requirements of Part D, Congress established that the Offset Ruling would cease to apply and there would be a statutory restriction on major new construction until the plan is revised to satisfy the requirements of Part D. Congress also established that, if the revised plan is not carried out after July 1 in accordance with Part D, construction permits are not to be issued. This statutory restriction on new sources is stated in sections 110(a)(2)(I) and 173(4) of the Act, and section 129(a) of the 1977 amendment to the Act (40 U.S.C. 7410(a)(2)(I), 7503(4), and note under 7502).

The underlying purpose of the restriction on new sources is not to punish a state for failure to control pollution, but rather to prevent the pollution problem from getting worse.[7] The restriction postpones construction that would worsen a violation of a national standard until after an acceptable state plan is in effect that assures timely attainment of the standard.

II. Discussion

1. *Nondiscretionary Statutory Restriction on New Sources.* The statutory language and legislative history indicate that the statutory restriction is automatic and mandatory under the Act and existing state implementation plans, and is not a new prohibition that can be imposed or withheld at EPA's discretion. In the absence of the Offset Ruling, which terminated for most areas as of July 1, the 1970 Act and EPA regulations implementing it (40 CFR 51.18) require each plan to prohibit construction that would cause or contribute to a violation after the date specified in the plan for attaining the standard.[8] If the plan is revised and carried out in accordance with the requirements of Part D, the 1977 amendments to the Act provide that the prohibition required by 40 CFR 51.18 be lifted.

Each plan now has a provision approved or promulgated as meeting the requirements of 40 CFR 51.18. Therefore, Act sections 110(a)(2)(I) and 173(4) and this interpretive rule define the scope of the new source restriction already required by existing state plans.[9] To the extent any particular state plan is alleged to allow construction after July 1 and the termination of the Offset Ruling, to that extent the plan is disapproved and sections 110(a)(2)(I) and 173(4) and this interpretive rule impose the statutory restriction upon the state plan as a matter of law.

The basic terms of the statutory new source restriction are set forth in paragraphs (a) and (b) of section 52.24 added to 40 CFR by this notice. The Clean Air Act provides unambiguously that the statutory restriction is to apply after June 30, 1979, if a state plan does not satisfy the requirements of Part D or is not being carried out in accordance with the requirements of Part D. While issues of fact, policy, and interpretation may be relevant in determining whether the statutory restriction applies to any particular area or any particular source,[10] the general provisions stated in this notice were established nationwide by Congress as a matter of law. The regulatory language tracks the language from the statute, and does not alter the legal requirements established there. Therefore, EPA finds that this is an interpretive rule for which notice and public procedure are unnecessary.[11]

Paragraphs (c) and (d) of 40 CFR 52.24 involve grand-fathering of certain permits and application of the new source restriction only to the pollutant for which the plan is inadequate. These sections, as discussed more fully below, derive from unambiguous statutory language and legislative history and from regulatory actions already taken by EPA. These paragraphs therefore are also interpretive rules that do not alter existing legal requirements and for which notice and public procedure are unnecessary.

In the Proposed Rules section of today's issue of the Federal Register, EPA is proposing to add paragraph (e), clarifying the manner in which the statutory restriction on new sources will apply. The clarifying provisions would involve the treatment of sources outside of the nonattainment area, and the significance of a source's impact on a violation within the nonattainment area. EPA believes there is sufficient ambiguity on these points to require public comment. Therefore, EPA will not issue a final ruling on these last issues until after comment is received and evaluated. However, if a source is ready to commence construction and EPA has not taken final action on the proposed clarifying language, a determination of whether the statutory moratorium applies to the source must be made on a case-by-case basis, with reference to the language of the statute, 40 CFR 52.24 (a)–(d), and any other relevant regulations.

2. *Grandfathered Permits.* Section 110(a)(2)(I) of the Act provides that construction should be forbidden after June 30, 1979, "unless as of the time of application for a permit for such construction or modification, such plan meets the requirements of Part D * * *." Legislative history indicates that a SIP should not be viewed as out of compliance with Part D until after the deadline for having a revised SIP that satisfies the requirements of Part D.[12] As provided in the recently revised Offset Ruling, permits applied for before the deadline may be issued and construction may commence if the requirements of the Offset Ruling are

[6] A list of nonattainment areas was promulgated on March 3, 1978, with some subsequent modification. 40 CFR 81.300 *et seq.*

[7] This purpose is clear from the legislative history discussed below.

[8] *See* Report to accompany H.R. 10498, H.R. Rep. No. 94–1175, 94th Cong., 2d Sess. 178–179 (May 15, 1976); Report to accompany S. 3219, S. Rep. No. 94–717, 94th Cong., 2d Sess. 42 (March 29, 1976); Report to accompany H.R. 6161, H.R. Rep. No. 95–294, 95th Cong., 1st Sess. 208, 211 (May 12, 1977); Report to accompany S. 252, S. Rep. No. 95–127, 95th Cong., 1st Sess. 55 (May 10, 1977).

[9] Some states are adopting provisions that track the language of sections 110(a) (2)(I) and 173(4), similar to this interpretive rule. Where such provisions are adequate, this interpretive rule does not affect the plan provisions.

[10] Where the statutory language is unclear and EPA has not issued a final clarifying rule, elaboration can be achieved in the course of case-by-case decisionmaking for individual areas and proposed sources. Such case-by-case decisionmaking may include: (1) EPA decisions of whether a revised plan satisfies the requirements of Part D; (2) findings by EPA or a state in reviewing an application to construct and operate a new source or modification; (3) EPA rulings requested by the owner or operator of a proposed source on whether the source would be subject to the statutory restriction, and (4) findings and decisions by EPA or a U.S. District Court in enforcement proceedings.

[11] *See* 5 U.S.C. 553(b) (A) and (B) (Administrative Procedure Act); the last sentence of section 307(d)(1) of the Clean Air Act (42 U.S.C. 7607(d)(1)); Report to accompany H.R. 6161, H.R. Rep. No. 95–294, 95th Cong., 1st Sess. 320 (May 12, 1977). Authority to promulgate the rule is provided by both sections 110(c)(1) and 301(a)(1) of the Act (42-U.S.C. 7401(c)(1) and 7601(a)(1)).

[12] Report to accompany S. 252, S. Rep. No. 95–127, 95th Cong., 1st Sess. 54, 169 (May 10, 1977).

satisfied.[13] The deadline is July 1, 1979 for areas designated as nonattainment on March 3, 1978 (43 FR 9862), and for other areas it is nine months after the designation.[14]

Section 173(4) of the Act establishes that a permit may not be issued if the plan is not being carried out in accordance with the requirements of Part D. This section applies only to permits applied for after termination of the Offset Ruling on the July 1, 1979 (or other appropriate) deadline. However, since the key requirement under this section is that the plan is being carried out when the permit is issued, it is irrelevant whether the plan is being carried out when the permit application is filed.

The interpretations on grandfathered permits are found in paragraph (c) of 40 CFR 52.24, as added by this notice.

3. *Relevant Pollutant.* Paragraph (d) of 40 CFR 52. 24 provides that the restriction on new sources applies only to major sources of the pollutant for which the area was designated as nonattainment of Part D. This interpretation is compelled by the legislative history and structure of the statute.[15]

4. *New or Modified Major Stationary Sources.* According to the statutory language, the statutory restriction on new sources applies to construction or modification of "major stationary sources," with "major stationary source" being defined as any stationary facility or source that "directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant * * *."[16] The United States Court of Appeals for the District of Columbia Circuit very recently issued a decision interpreting similar statutory terms.[17] The Agency will consider both the statutory language and this decision in determining the sources and modifications that are subject to the statutory restriction on new sources. EPA will shortly issue a statement explaining the effect of this decision on the classes of sources subject to various requirements under the Act, including the restriction on new sources.

III. Authority

This ruling is issued under Section 129(a) of the Clean Air Act Amendments of 1977, Pub. L. 95–95, 91 Stat. 745, August 7, 1977 (note under 42 U.S.C. 7502) and Sections 110, 172 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601).

The Administrator has determined that this rule is nationally applicable and is based on determinations of nationwide scope and effect. EPA intends that, for purposes of judicial review, the interpretations made by this notice be treated as severable.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: June 27, 1979.

Barbara Blum,

Acting Administrator.

40 CFR Part 52, Subpart A, is amended by adding the following section:

§ 52.24 Statutory restriction on new sources.

(a) After June 30, 1979, no major stationary source shall be constructed or modified in any nonattainment area (as designated in 40 CFR Part 81, Subpart C) ("nonattainment area") to which any state implementation plan applies, if the emissions from such facility will cause or contribute to concentrations of any pollutant for which a national ambient air quality standard is exceeded in such area, unless, as of the time of application for a permit for such construction, such plan meets the requirements of part D, title I, of the Clean Air Act, as amended (42 USC 7501 *et seq.*) ("Part D").

(b) For any nonattainment area for which the SIP satisfies the requirements of Part D, permits to construct and operate new or modified major stationary sources may be issued only if the applicable SIP is being carried out for the nonattainment area in which the proposed source is to be constructed or modified in accordance with the requirements of Part D.

(c) The Emission Offset Interpretative Ruling, 40 CFR Part 51, Appendix S ("Offset Ruling"), rather than paragraphs (a) and (b), governs permits to construct and operate applied for before the deadline for having a revised SIP in effect that satisfies Part D. This deadline is July 1, 1979, for areas designated as nonattainment on March 3, 1978 (42 F.R. 8962). The revised SIP, rather than paragraph (a), governs permits applied for during a period when the revised SIP is in compliance with Part D.

(d) The restrictions in paragraphs (a) and (b) apply only to major stationary sources of emissions that cause or contribute to concentrations of the pollutant for which the nonattainment area was designated as nonattainment, and for which the SIP does not meet the requirements of Part D or is not being carried out in accordance with the requirements of Part D.

[FR Doc. 79-20431 Filed 6-29-79; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1261-1]

Approval and Promulgation of State Implementation Plans; Approval of Plan Revision for Wyoming

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve the State Implementation Plan (SIP) revision for Wyoming which was received by EPA on January 26, 1979. This plan revision was prepared by the State to meet the requirements of Part C (Prevention of Significant Deterioration (PSD) of air quality), Part D (Plan requirements for nonattainment areas) and various sections of the Clean Air Act, as amended in 1977. On April 13, 1979 (44 FR 22127), EPA published a notice of proposed rulemaking which described the nature of the SIP revision, discussed certain provisions which in

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[13] 40 CFR Part 51, Appendix S, section I, as revised 44 FR 3275 col. 2, 3282 col. 2 (January 16, 1979).

[14] No additional time is available, however, when an area boundary is adjusted but the same air quality problem and sources contributing to the problem are addressed. *See* 44 FR 20379 col. 3 (April 4, 1979).

[15] Each nonattainment area and each plan, as defined in the Act, applies to only a single national ambient air quality standard. Since sections 110(a)(2)(I) and 173(4) refer to each nonattainment area and plan in the singular, these provisions must apply to the single standard relevant to the particular area and plan. *See also* the statutory purpose and legislative history discussed above.

[16] Sections 110(a)(2)(I), 172(b)(6), 173(4), and 302(j) of the Act (42 U.S.C. 7410(A)(2)(I), 7502(b)(6), 7503(4), and 7602(j)).

[17] *Alabama Power Co. v. Costle*, Nos. 78–1006 *et al.* (D.C. Cir., June 18, 1979). The Court decided, among other things, that for purposes of the Prevention of Significant Deterioration provisions of the Act (sections 161 and following):

(A) a source is "major" if it "either (1) actually emits the specified annual tonnage of any air pollutant, or (2) has the potential, when operating at full design capacity, to emit the statutory amount;"

(B) a source's "potential to emit" must be "calculated on the assumption that air pollution control equipment incorporated into the design of the facility will function to control emissions in the manner reasonably anticipated when the calculation is made;" and

(C) there is a "modification" of a source if both (1) there is "a physical change in or a change in the method of operation of a stationary source," and (2) there is "a net increase in the potential to emit any air pollutant." (Slip op. at 9 and 21.)

EPA's judgment did not comply with the requirements of the Act, and requested public comment. No public comments were received. However, on May 16, 1979, EPA received clarification from the State on the issues raised in the April 13, 1979, notice. This notice describes the State's response to those issues and approves the SIP revision with respect to the requirements of Part D, Section 127, Section 126 and Section 110(a)(2)(F) of the Clean Air Act. However, final action on the PSD portion of the SIP will be taken in a separate **Federal Register** notice.

EFFECTIVE DATE: July 2, 1979.

ADDRESSES: Copies of the SIP revision, EPA's evaluation report, and the supplemental submission received on May 16, 1979, are available at the following addresses for inspection:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295.
Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. DeSpain, Chief, Air Programs Branch, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and on September 11, 1978 (43 FR 40412), pursuant to the requirements of Section 107 of the Clean Air Act, as amended in 1977, EPA designated areas in each State as nonattainment with respect to the criteria air pollutants. In Sweetwater County, Wyoming, a 24 square mile area, referred to as the trona plant area, was designated nonattainment with respect to total suspended particulates (TSP).

Part D of the Amendments requires each State to revise its SIP to meet specific requirements in the areas designated as nonattainment. These SIP revisions, which were due on January 1, 1979, must demonstrate attainment of the national ambient air quality standards, as expeditiously as practicable, but no later than December 31, 1982.

On January 26, 1979, EPA received the revised SIP for the State of Wyoming. That revision addressed both the Clean Air Act requirements for a nonattainment SIP and some of the general requirements for a statewide SIP.

On March 16, 1979 (44 FR 16024), EPA published an advanced notice of availability of the Wyoming SIP revision and invited the public to comment on its approvability. In addition, on April 13, 1979 (44 FR 22127), EPA published a notice of proposed rulemaking which described the nature of the nonattainment SIP and the results of EPA's review with respect to the requirements for an approvable nonattainment SIP provided in a **Federal Register** notice published on April 4, 1979 (44 FR 20372); described the other portions of the Wyoming SIP revision with respect to the general requirements of the Clean Air Act; and requested public comment. No comments were received.

The April 13, 1979, notice raised several issues which in EPA's judgment, required either clarification by the State or additional revisions to the SIP. On May 16, 1979, EPA received supplementary information from the State which addressed each of these issues.

The following discussion is divided into two parts. The first part discusses the nonattainment SIP, the issues raised in the April 13, 1979, notice, and the State's response to those issues. The second part discusses the other general portions of the SIP, the issues raised on those portions, and Wyoming's response to those issues.

Nonattainment SIP

The Wyoming SIP contains an analysis of the trona nonattainment area for 1977 which was performed through the use of an EPA approved air quality model and 1977 ambient air quality data. This analysis showed that localized violations of the national standards for TSP occur in the vicinity of several existing trona industrial facilities and that the violations are caused primarily by fugitive dust emissions from the materials handling at the facilities. As a result, the State of Wyoming promulgated regulations for each facility requiring the use of reasonably available measures to limit the fugitive dust emissions from the facilities. The regulations also amended the State's limitations on stack emissions from each stack used in the trona processing to reflect the benefits of control technology currently being utilized by the trona plant operators. After consideration of these combined measures, the State's analysis demonstrates attainment of the national standards for TSP. The analysis does not include growth. However, in this case, growth considerations would not be appropriate because:

(1) Existing ambient violations are limited to a very small area in the vicinity of the materials handling operations.

(2) There are no emissions of TSP from area sources in the nonattainment area whose growth could interfere with reasonable further progress towards attainment.

(3) The only growth that could occur in the vicinity of nonattainment receptors would result from a production increase at one of the trona plants or location there by a new source and such an increase could only occur after a thorough analysis by the Wyoming Department of Environmental Quality which demonstrated that the increased emissions would not cause or contribute to violations of the national standards.

There were three issues involved in the nonattainment portion of the Wyoming SIP revision which were raised in EPA's proposal.

(1) The Clean Air Act requires that permits issued to any new or modified stationary source in a nonattainment area meet the provisions of Section 173 of the Act. Wyoming's policy of strictly interpreting its regulation prohibiting issuance of a permit to any source if it will prevent attainment or maintenance of an ambient air quality standard and not allowing the construction of new sources or modifications even if offsets are obtained appears to satisfy that requirement. However, EPA requested clarification of the State's policies to insure that the State regulation will continue to be read literally and that it will not be interpreted to permit offsets. This clarification was given in the form of an opinion from the Wyoming Attorney General which reaffirmed the State's policy of denying permits to construct or modify facilities where their emissions would cause or contribute to violations of the national standards.

(2) The Wyoming regulations applicable to the trona plant area provide that if the Administrator of the Wyoming Division of Air Quality finds that the applicable TSP standards have been attained and will be maintained, uncompleted control programs would not have to be completed. However, to satisfy the requirements of the Act, such a finding must be demonstrated to EPA's satisfaction and the SIP must be revised before the source can be relieved from meeting any requirement in the federally enforceable SIP. Therefore, the regulation as approved does not allow incompleted programs to be dispersed with without a SIP revision.

(3) The SIP revision relies heavily upon two new regulations; (a) Section 24—Prevention of Significant Deterioration, and (b) Section 25—Sweetwater County Nonattainment Area Particulate Matter Regulations. EPA requested that the State provide proper certification that the regulations

were adopted by the Environmental Quality Council of Wyoming. The May 16, 1979, supplemental information included the necessary certification and indicated that the effective date of the new regulations was January 25, 1979.

With the resolution of the issues discussed above, EPA finds that the SIP meets all the requirements of Part D of the Clean Air Act. Therefore, EPA approves the Wyoming SIP revision with respect to the trona plant nonattainment area.

General SIP Measures

As indicated previously, the Wyoming SIP revision submitted on January 26, 1979, addresses several general requirements of the Clean Air Act. These provisions are the subject of the following discussions:

Section 127—Public Notification

Section 127 of the Act requires the SIP to contain measures for notifying the public on a regular basis of instances or areas in which any primary standard is exceeded and to enhance public awareness of measures which can be taken to prevent the standards from being exceeded. The Wyoming SIP was amended to provide for the release of reports to the news media which define areas in which the ambient standards are being exceeded. The reports, which will be released on a quarterly basis, will also define any health hazards and identify the contributing sources. It is EPA's judgment that this provision meets the requirements of Section 127 of the Act and EPA approves this provision of the SIP.

Section 121—Consultation

Section 121 of the Act requires that the State provide a satisfactory process for consultation with local governments in the development of a SIP to meet certain specific requirements. This process is to be in accordance with regulations promulgated by EPA. The Wyoming SIP was amended to provide a process of consultation with local governments and federal land managers. EPA's review of the Wyoming process will be deferred until such time as federal regulations are developed. Wyoming may need to revise its process after EPA's consultation regulations are promulgated.

New Source Performance Standards

The Wyoming New Source Performance Standards were revised to incorporate changes made to the Federal standards. This action relates to delegation of enforcement authority and is not considered a SIP revision. It will be dealt with in a separate **Federal Register** notice.

Continuous Emission Monitoring

Section 110(a)(2)(F) of the Act requires the SIP to provide for stationary source owners to install equipment to monitor emissions from such sources. Section 23 of the Wyoming Air Quality Standards and Regulations incorporates such a provision which meets the requirements of 40 CFR 51.19(e) and Appendix P of 40 CFR Part 51, and EPA approves this provision of the SIP.

Section 126—Interstate Pollution

Section 126 of the Act requires that the SIP provide for written notice to nearby states of any proposed major stationary source which may significantly contribute to levels of air pollution in that state. Section 21(m) of the Wyoming Air Quality Standards and Regulations meets this requirement. Additionally, Section 126 requires the State to identify existing major sources which meet the above criteria and provide written notice to the neighboring State. On November 4, 1977, the State of Wyoming sent letters to each bordering state with the required notification. Therefore, all of the requirements of Section 126 of the Act are met by the Wyoming SIP.

Attainment Dates

Under section 110(a)(2)(A) of the Act, state implementation plans adopted in the early 1970's were to have attained ambient standards in most regions by 1975, with some exceptions until 1977. Under section 172(a), plan revisions for areas that still violate the standards are to provide for attainment as expeditiously as practicable but for primary standards no later than the end of 1982, or the end of 1987 for very difficult ozone or carbon monoxide problems.

For each nonattainment area where a revised plan provides for attainment by the deadlines under section 172(a) of the Act, the new deadlines are added to the chart of attainment dates in 40 CFR Part 52, and the corresponding earlier deadlines for attainment under section 110(a)(2)(A) of the Act are deleted. However, the earlier deadlines under section 110(a)(2)(A) retain some legal significance despite deletion of the deadlines from the CFR. For compliance schedules designed to provide for attainment by the deadlines under section 110(a)(2)(A), EPA's authority to approve extensions beyond those deadlines is severely limited. For example, EPA could not approve a compliance date variance beyond those deadlines merely because a plan revision providing for attainment by the later deadlines under section 172(a) had been approved. *See* 40 CFR 51.6, 51.10(a) and (b), 51.15(b), 51.33(f); *Train v. NRDC*, 421 U.S. 60 (1975); 44 FR 20373 and n. 12 (April 4, 1979). Reference should be made to the 1978 edition of the CFR to determine the applicable deadlines for attainment under section 110(a)(2)(A) of the Act.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This rulemaking action is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: June 26, 1979.

Barbara Blum,

Acting Administrator.

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

1. In § 52.2620, paragraph (c)(10) is added as follows:

§ 52.2620 Identification of plan.

* * * * *

(c) * * *

(10) Provisions to meet the requirements of Part D and Sections 110, 126, and 127 of the Clean Air Act, as amended in 1977 were submitted on January 26, 1979.

2. Section 52.2622 is revised to read as follows:

§ 52.2622 Approval status.

With the exceptions set forth in this subpart, the Administrator approves Wyoming's plans as meeting the requirements of Section 110 of the Clean Air Act, as amended in 1977. Furthermore, the Administrator finds that the plans satisfy the requirements of Part D, Title I, of the Clean Air Act.

3. Section 52.2627 is revised to read as follows:

§ 52.2627 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information presented in Wyoming's plan.

Air quality control region and nonattainment area	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Cheyenne Intrastate	a	Jan. 31, 1974	b	b	b	b	b
Casper Intrastate	b	Sept. 30, 1976	b	b	b	b	b
Wyoming Intrastate:							
a. Trona nonattainment area	c	c	b	b	b	b	b
b. Remainder of AQCR	b	May 15, 1977	b	b	b	b	b

a. Air quality levels presently below primary standards.
b. Air quality levels presently below secondary standards.
c. December 31, 1982.

[FR Doc. 79-20449 Filed 6-29-79; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1252-3]

Delayed Compliance Order for Capitol University, Columbus, Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of the U.S. EPA approves a Delayed Compliance Order to Capitol University. The Order requires the University to bring air emissions from its three coal-fired boilers at Columbus, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Capitol University's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the order.

DATES: This rule takes effect on July 2, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On May 8, 1979, the Regional Administrator of the U.S. EPA's Region V Office published in the **Federal Register** (44 FR 26928) a Notice setting out the provisions of a proposed State Delayed Compliance Order for Capitol University. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the Notice.

Therefore, a Delayed Compliance Order effective this date is approved to Capitol University by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Capitol University on a schedule to bring its three coal-fired boilers at Columbus, Ohio, into compliance as expeditiously as practicable with Regulations OAC 3745-17-07 and OAC 3745-17-10, a part of the federally approved Ohio State Implementation Plan. Capitol University is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Capitol University to delay compliance with the SIP regulations covered by the Order until July 1, 1979.

Compliance with the Order by Capitol University will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Capitol University is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Capitol University on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: June 22, 1979.

Barbara Blum,

Acting Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in Section 65.401:

§ 65.401 U.S. EPA approval of State delayed compliance order issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

[FR Doc. 79-20311 Filed 6-29-79; 8:45 am]
BILLING CODE 6560-01-M

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
*	*	*	*	*	*
Capitol University	Columbus Ohio	None	5-8-79	OAC 3745-17-07. OAC 3745-17-10.	7-1-79
*	*	*	*	*	*

40 CFR Part 65

[FRL 1252-5]

Delayed Compliance Order for Indiana Gas & Chemical Corp.

AGENCY: U.S. Environmental Protection Agency.

ACTION: final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Indiana Gas & Chemical Corporation. The Order requires the Company to bring air emissions from batteries 1 and 2 of its coke plant at Terre Haute, Indiana, into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Indiana Gas & Chemical Corporation's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect on July 2, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On November 21, 1978, the Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (43 FR 54277) a notice setting out the provisions of a proposed State Delayed Compliance Order for Indiana Gas & Chemical Corporation. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Indiana Gas & Chemical Corporation by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Indiana Gas & Chemical Corporation on a schedule to bring its batteries 1 and 2 of the coke plant at Terre Haute, Indiana, into compliance as expeditiously as practicable with Vigo County Regulation 405, a part of the federally approved Indiana State Implementation Plan. Indiana Gas & Chemical Corporation is unable to immediately comply with this regulation. the Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Indiana Gas & Chemical Corporation to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by Indiana Gas & Chemical Corporation will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Indiana Gas & Chemical Corporation is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purposes of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Indiana Gas & Chemical Corporation on a schedule for compliance with the Indiana State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: June 22, 1979.

Barbara Blum,

Acting Administrator.

In consideration of the foregoing, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in Section 65.401:

§ 65.401 U.S. EPA approval of State delayed compliance order issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d) (2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
* *	*	*	*	*	*
Indiana Gas & Chemical Corporation.	Terre Haute, Indiana	None	11-21-78	Vigo County Regulation 405.	7-1-79
* *	*	*	*	*	*

[FR Doc. 79-20313 Filed 6-29-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1252-4]

Delayed Compliance Order for Lincoln Electric Co., Cleveland, Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approved a Delayed Compliance Order to Lincoln Electric Company. The Order requires the Company to bring air emissions from its two paint dip-tank and drying oven systems at Cleveland, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP). Lincoln Electric Company's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violations of the SIP regulations covered in the Order.

DATES: This rule takes effect on July 2, 1979.

FOR FURTHER INFORMATION CONTACT: Cynthia Colantoni, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On May 8, 1979, the Regional Administrator of U.S. EPA's Region V Office published in the **Federal Register** (44 FR 26942) a

notice setting out the provisions of a proposed State Delayed Compliance Order for Lincoln Electric Company. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Lincoln Electric Company by the Administrator of U.S. EPA pursuant to the authority of Section 113(d)(2) of the Act, 42 U.S.C. 7413(d)(2). The Order places Lincoln Electric Company on a schedule to bring its two paint dip-tank and drying oven systems at Cleveland, Ohio, into compliance as expeditiously as practicable with Regulation OAC 3745-21-07(G), a part of the federally approved Ohio State Implementation Plan. Lincoln Electric Company is unable to immediately comply with this regulation. The Order also imposes interim requirements which meet Sections 113(d)(1)(C) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Lincoln Electric Company to delay compliance with the SIP regulation covered by the Order until July 1, 1979.

Compliance with the Order by Lincoln Electric Company will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulation covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulation covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Lincoln Electric Company is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purpose of judicial review under Section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Lincoln Electric Company on a schedule for compliance with the Ohio State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: June 22, 1979.

Barbara Blum,

Acting Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in Section 65.401:

§ 65.401 U.S. EPA approval of State delayed compliance order issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
*	*	*	*	*	*
Lincoln Electric Company	Cleveland, Ohio	None	5-8-79	OAC 3745-21-07(G).	7-1-79
*	*	*	*	*	*

[FR Doc. 79-20314 Filed 6-29-79; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. I

Federal Procurement Regulations; Subcontracting Under Federal Contracts; Temporary Regulations

[Appendix; FPR Temp. Reg. 50]

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation prescribes new clauses and other procedures concerning the award of subcontracts to small business concerns and small business concerns that are socially and economically disadvantaged. The Administrator, Office of Federal Procurement Policy, published April 10 and June 15, 1979, notices in the **Federal Register** (44 FR 23610, Apr. 20, 1979 and 44 FR 35068, June 18, 1979), which set forth the clauses and other procedures and requested GSA to incorporate the clauses and procedures into the Federal Procurement Regulations. The clauses and procedures implement Public Law 95-507, October 24, 1978. The intended effect is to increase the award of subcontracts to small business concerns.

DATES: Effective date: April 10, 1979. Expiration date: April 10, 1981.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703-557-8947).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 1, the following temporary regulation is added to the appendix at the end of the chapter to read as follows:

[Temporary Regulation 50]

1. *Purpose.* This temporary regulation prescribes new clauses and procedures on the awarding of subcontracts to small business concerns and small business concerns that are socially and economically disadvantaged.

2. *Effective date.* This regulation became effective April 10, 1979.

3. *Expiration date.* This regulation expires on April 10, 1981.

4. *Background.* The Administrator, Office of Federal Procurement Policy (OFPP), published April 10 and June 15, 1979, notices in the Federal Register (44 FR 23610, Apr. 20, 1979 and 44 FR 35068, June 18, 1979) which set forth clauses and other procedures on the award of subcontracts to small business concerns and small business concerns that are socially economically disadvantaged. GSA was requested to incorporate the clauses and procedures into the Federal Procurement Regulations. The clauses and procedures implement Public Law 95-507,

October 24, 1978. A May 22, 1979, TWX from GSA to Agency heads authorized the use of the clauses and procedures.

5. *Explanation of changes.* The policies and procedures in §§ 1–1.710 and 1–1.1310 are rescinded, and the sections are reserved.

6. *Agency action.* Pending the publication of a permanent FPR amendment, agencies shall employ the contract clauses and procedures set forth in the Federal Register notices referenced in paragraph 4. The clauses should be included in solicitations as soon as practicable after issuance of this temporary regulation. These clauses and procedures are illustrated in attachement A.

Note.—Attachment A, which is referenced in paragraph 6, is filed with the original document and does not appear in this volume.

Dated: June 20, 1979.

Paul E. Goulding,

Acting Administrator of General Services.

[FR Doc. 79-20312 Filed 6-29-79; 8:45 am]

BILLING CODE 6820-82-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1069.4

[CSA Instruction 6910-2e]

Per Diem Rates for CSA Grantees and Delegate Agencies

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is revising its per diem rates for CSA grantees and delegate agencies. On April 19, 1979, the General Services Administration filed changes to the **Federal Register** to be effective on or after April 22, 1979. Since CSA grantees are required to comply with the Federal Travel Regulations, this rule will inform them of the changes thereto.

EFFECTIVE DATE: This rule is effective July 2, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Maryann J. Fair, Community Services Administration, 1200 19th St. NW., Washington, D.C. 20506. Telephone: 202–254–5047; Teletypewriter: 202–254–6218.

SUPPLEMENTARY INFORMATION: Although the Federal Travel Regulations do not apply by their terms to CSA grantees or delegate agencies, CSA has determined that the regulations contained therein represent reasonable restrictions and limitations which CSA grantees and delegate agencies should not exceed for travel within the 48 contiguous states and the District of Columbia.

The Federal Travel Regulation's were amended, effective April 22, 1979, to include designating additional high rate geographical areas (HRGA), redefining certain existing high rate geographical areas, and increasing the maximum daily actual subsistence rates to other areas. This rule informs grantees of these changes and permits grantees to implement the regulation retroactively to April 22, 1979, the effective date of the amended Federal Travel Regulations.

CSA does not deem this revision significant since the only changes being made implement changes in the Federal Travel Regulations and CSA has no authority to change them.

Authority: The provisions of this Subpart issued under sec. 602, 78 Stat, 530, 42 U.S.C. 2942.

Graciela (Grace) Olivarez,

Director.

45 CFR Part 1069.4 is revised to read as follows:

Sec.

1069.4–1 Applicability.
1069.4–2 Purpose.
1069.4–3 Policy.
1069.4–4 Methods of reimbursement.
1069.4–5 Computation of expenses.

§ 1069.4–1 Applicability.

This subpart applies to all grant programs financially assisted under Titles II, III–B and VII of the Economic Opportunity Act of 1964, as amended, if such assistance is administered by the Community Services Administration.

§ 1069.4–2 Purpose.

The purpose of this subpart is to establish the method for CSA grantees and delegate agencies to compute per diem rates.

§ 1069.4–3 Policy.

(a) Grantees and delegate agencies that follow the travel policies in the FTR are hereby authorized to reimburse employees, consultants and members of governing or administering boards up to a maximum per diem rate not in excess of $35.00 except when actual travel subsistence expense(s) is authorized or approved due to the unusual circumstances of the normal travel assignment or travel to a designated high rate geographical area.

(b) the FTR per diem and actual expense rates are maximum and are not intended to be applied on a blanket basis to all grantee or delegate agency travel. Grantees and delegate agencies shall establish the traveler's own rules for determining when the maximum (whether FTR or the agency's own lower maximum) shall be used and when the lower rates shall apply. Factors which should be considered when setting per diem rates are cost of lodging and meals in the locality; availability of meals and lodging at temporary duty locations without charge, or at nominal cost; special rates for meals and lodging at meetings or conferences; and extended duty at a place where the traveler may obtain accommodations at reduced rates.

(c) The maximum rates adopted by a grantee or delegate agency for official travel outside the continental United States shall be no higher than those prescribed by the Civilian Personnel Per Diem Bulletin.

(d) Increased travel costs necessitated by increased per diem rates must be absorbed within existing grant funds.

(e) At this time there is no change to the present mileage rate for privately-owned automobiles. The mileage costs for use of privately-owned automobiles shall be paid in accordance with prevailing rates in a community. In no event, however, may the rates paid exceed 17 cents a mile.

(f) Although the per diem rates in this subpart are effective for travel performed on or after April 22, 1979*, each grantee will make its own policy on whether or not to reimburse travel performed between that date and the effective date of this regulation. (*Effective date of change to Federal Travel Regulations published in the **Federal Register** by the General Services Administration on April 19, 1979.)

§ 1069.4–4 Methods of reimbursement.

(a) *Per diem rate reimbursement.* The amount of the per diem paid must be based on the average lodging cost per trip (including applicable taxes) not to exceed $19.00, plus a daily allowance for meals and miscellaneous expenses not to exceed $16.00. However, if an agency's own travel policies establish a lower maximum per diem rate, or the terms of its grant require a lower rate, the lower maximum applies.

(b) *Travel to high rate geographical areas.* Also allowed is the payment of actual subsistence expenses whenever temporary duty travel is performed to or in a location designated by the General Services Administration as a high rate geographical area, except when the high rate area is only an intermediate stopover point at which no official duty is performed.

Designated high rate geographical areas [1]	Prescribed maximum daily rate
Akron, OH [2]	$42.00
Albany, NY [2]	47.00
Albuquerque, NM [2]	43.00
Amarillo, TX [2]	40.00

Designated high rate geographical areas [1]	Prescribed maximum daily rate
Asheville, NC [2]	42.00
Atlanta, GA [2]	47.00
Austin, TX [2]	46.00
Baltimore, MD [3]	50.00
Baton Rouge, LA [2]	42.00
Birmingham, AL [2]	42.00
Boise, ID [2]	41.00
Boston, MA [3] (all locations within the counties of Middlesex, Norfolk and Suffolk)	50.00
Bridgeport, CT [3] (all locations within Fairfield County)	48.00
Buffalo, NY [3] (all locations within the corporate limits of Buffalo and Niagara Falls, NY)	49.00
Burlington, VT [3]	45.00
Charleston, SC [2]	41.00
Charleston, WV [3]	47.00
Cheyenne, WY [2]	44.00
Chicago, IL [3] (all locations within Lake and Cook Counties)	50.00
Cincinnati, OH [2]	46.00
Cleveland, OH [2]	50.00
Columbus, OH [2]	45.00
Dallas, TX [3]	50.00
Dayton, OH [2]	44.00
Denver, CO [3]	48.00
Des Moines, IA [2]	40.00
Detroit, MI [2]	50.00
Dover, NJ [2] (all locations within the corporate limits of Dover including Picatinny Arsenal, NJ)	45.00
Eatontown, NJ [2] (all locations within the corporate limits of Eatontown including Fort Monmouth, NJ)	48.00
El Paso, TX [2]	43.00
Ft. Wayne, IN [2]	50.00
Fresno, CA [2]	43.00
Hartford, CT [2]	50.00
Harrisburg, PA [2]	45.00
Houston, TX [3] (all locations within the corporate limits of Houston including the L. B. Johnson Space Center and Ellington AFB)	50.00
Indianapolis, IN [3] (all locations within the corporate limits of Indianapolis including Fort Benjamin Harrison, IN)	47.00
Jacksonville, FL [2]	42.00
Kalamazoo, MI [2]	42.00
Kansas City, Mo [3]	48.00
Las Vegas, NV [3]	50.00
Lexington, KY [2]	44.00
Los Alamos, NM [2]	50.00
Los Angeles, CA [3] (all locations within Los Angeles and Orange Counties)	50.00
Louisville, KY [3]	45.00
Madison, WI [2]	41.00
Manchester, NH [3]	42.00
Memphis, TN [2]	45.00
Miami, FL [3] (all locations within Dade, Broward and Palm Beach Counties)	48.00
Milwaukee, WI [3]	44.00
Minneapolis/St. Paul, MN [3] (all locations within Anoka, Hennepin and Ramsey counties including the Fort Snelling Military Reservation)	47.00
Monterey, CA [2] (all locations within Monterey, County)	43.00
Newark, NJ [3] (all locatons within Bergen, Essex, Hudson, Passaic and Union Counties)	50.00
New Haven, CT [2]	45.00
New Orleans, LA [3] (all locations within Jefferson, Orleans, Plaquemines, and St. Bernard Parishes)	50.00
New York, NY [3] (all locations within the boroughs of the Bronx, Brooklyn, Manhattan, Queens, and Staten Island and the counties of Nassau and Suffolk)	50.00
Norfolk, Virginia area [3] (all locations within the cities of Norfolk, Virginia Beach, Hampton, Newport News, Portsmouth, and Chesapeake, VA)	41.00
Omaha, NB [2]	40.00
Orlando, FL [2]	40.00
Philadelphia, PA [3] (all locations within Philadelphia and Bala Cynwyd, PA)	50.00
Phoenix, AZ [2] (all locations within the corporate limits of Phoenix and Scottsdale, AZ)	40.00
Pittsburgh, PA [2]	50.00
Pittsfield, MA [2]	45.00
Portland, ME [2]	42.00
Portland, OR [2]	45.00
Providence, RI [3]	45.00
Richmond, VA [2]	41.00
Roanoke, VA [2]	40.00
Rochester, NY [2]	45.00
St. Louis, MO [2]	46.00
Sacramento, CA [2]	45.00
Salt Lake City, UT [2]	43.00
San Antonio, TX [2]	41.00
San Diego, CA [2]	50.00
San Jose, CA [2] (all locations within Santa Clara County)	44.00
San Francisco/Oakland, CA [3] (all locations within San Francisco and Alameda Counties)	50.00
San Mateo, CA [3] (all locations within San Mateo, County)	43.00
San Barbara, CA [2]	50.00
Seattle, WA [3] (all locations within King County)	49.00
Spokane, WA [2]	42.00
Springfield, IL [2]	39.00
Springfield, MA [2]	41.00
Syracuse, NY [2]	43.00
Tampa, FL [2]	42.00
Toledo, OH [2]	43.00
Tucson, AZ [2]	48.00
Tulsa, OK [2]	40.00
Valley Forge, PA [3] (all locations within the corporate limits of Valley Forge and King of Prussia, PA)	50.00
Washington, DC [3] (all locations within the corporate limits of Washington, DC the cities of Alexandria, Falls Church and Fairfax and the counties of Arlington, Loudoun and Fairfax in Virginia; and the counties of Montgomery and Prince Georges in Maryland)	50.00
Wichita, KS [2]	44.00
Wilmington, DE [2]	47.00
Worcester, MA [2]	44.00
York, PA [2]	41.00

[1] The HRGA boundary is defined as "all locations within the corporate limits thereof" unless otherwise specified.

[2] Newly designated HRGA.

[3] Increased maximum rate and/or redefined boundary for previously designated HRGA.

(c) *Unusual circumstances.* (1) Actual subsistence expense reimbursement may be authorized or approved for specific travel assignment within and outside the continental United States when it is determined that maximum per diem allowance would be inadequate due to the unusual circumstances of the travel assignment.

(2) Actual subsistence expense reimbursement shall not be authorized or approved solely on the basis of inflated lodging and/or meal costs since inflated costs are common to all travelers; some unusual circumstances of the traveler's assignment must be involved to cause the lodging and/or meal costs to be higher than those which normally would be incurred at a particular location.

(3) Travel which involves unusual circumstances may include, but is not limited to, the following situations:

(i) The traveler attends a meeting, conference, or training session away from his/her official duty station where lodging and/or meals must be procured at a prearranged place (such as the hotel where the meeting, conference, or training session is being held) and the lodging costs, incurred because of such prearranged accommodations, absorb all or practically all of the maximum per diem allowance.

(ii) The traveler, by reasons of the assignment, necessarily incurs unusually high expenses in the conduct of official business such as for superior or extraordinary accommodations including a suite or other quarters for which the charge is well above that which he/she would normally have to pay for accommodations.

(iii) The traveler necessarily incurs unusually high expenses incident to his/her assignment to accompany another traveler in a situation as described above.

(4) For travel within the continental United States involving unusual circumstances the maximum daily rate is $50.00.

§ 1069.4–5 Computation of expenses.

(a) Travel may be authorized on both per diem basis and an actual subsistence expense basis during a single trip when travel is performed in several locations including high rate geographical areas; however, only one method of reimbursement (per diem or actual subsistence expense) shall be authorized within the same day.

(b) In instances of mixed travel involving both per diem and actual subsistence expenses, or several high rate geographical areas the method of reimbursement and authorized rate for a calendar day (beginning at 12:01 a.m) shall be determined by the location where the lodgings are obtained for that day. For example, when a traveler travels to a high rate geographical area where he/she performs official duties and obtains lodging, the reimbursement would be made under the actual subsistence expense method for the entire day not to exceed the maximum rate prescribed for the high rate area where the lodgings were obtained.

(c) The method or reimbursement for the day of return travel shall be computed at the same rate as authorized for the first day of travel. For example, if a traveler authorized actual subsistence expense reimbursement for the first day of travel, reimbursement for the day of return shall also be on actual subsistence basis; if per diem is authorized for the first day of travel, per diem shall also be authorized for the day of return to home or official station.

(d) *Per Diem.* (1) To determine the average cost of lodging, divide the total amount paid for lodgings during the period covered by the voucher by the number of nights for which lodgings were or would have been required while away from the official station, including any nights for which free lodging, if any, was received. Exclude from this computation the night of the employee's

return to his/her residence or official station. If the average cost of lodging exceeds $19.00, $19.00 shall be used as the average cost of lodging.

(2) To the average cost of lodging add the allowance for meals and miscellaneous expenses. The resulting amount rounded to the next whole dollar, subject to the maximum, is the per diem rate to be applied to the traveler's reimbursement voucher. This rate will be multiplied by the number of days or quarterly fractions thereof to determine the amount of per diem for which the traveler is reimbursed.

(3) Receipts for lodging costs may be required at the discretion of each agency; however, employees are required to certify on their vouchers that per diem claimed is based on the average cost for lodging while on official travel within the continental United States during the period covered by the voucher.

(e) *Actual subsistence expenses.* For travel to designated high rate geographical areas and under unusual circumstances § 1069.4–4 (c) the traveler must itemize on his/her travel voucher the cost of each meal (no receipt required) and the actual cost of each night's lodging supported by hotel or motel receipts. The traveler shall be reimbursed for the actual expenses incurred for each day or the daily maximum, whichever is lower. If actual expenses for a given day exceed the daily maximum the excess may not be applied to another day in which actual expenses are less than the daily maximum.

[FR Doc. 79–20263 Filed 6–29–79; 8:45 am]
BILLING CODE 6315–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 73

[FCC 79–371]

Reregulation of Radio and TV Broadcasting

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: As a result of its continuing study of the reregulation of broadcasting and its ongoing oversight of AM, FM and TV broadcast station rules, the Commission continues the restructuring of Part 73 of Volume III into a more concise and orderly form by transferring to Subpart H of Part 73 all rules the subject of which is common to AM, FM and TV broadcast stations. Revisions and modifications are made as needed. Transfer of rules herein pertains to broadcast applications, reports and proceedings, and are transferred from Part 1 of Volume I.

EFFECTIVE DATE: July 9, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Phil Cross: John Reiser: Steve Crane, Broadcast Bureau (202) 632–9660.

SUPPLEMENTARY INFORMATION: By the Commission: Commissioner Fogarty absent.

In the matter of reregulation of Radio and TV Broadcasting

Order

Adopted: June 7, 1979.
Released: June 22, 1979.

1. As a result of its continuing study of the reregulation of broadcasting and its ongoing oversight of AM, FM and TV broadcast station rules, the Commission in this *Order* continues the reorganization and the restructuring of its rule book for the broadcast services.

2. This is the third *Order* in this project to reorganize and reformat Part 73 of Volume III. The revised rule book should facilitate a better understanding of our rules by the public, licensees and professional practitioners.

3. Rule clarifications are made where needed, including deletion of unnecessary requirements, simplification of language, rule section restructuring, updating to match the state of the art and other such reregulatory measures.

4. An alphabetical index was the initial step in this project to facilitate ready reference and quick access to the rules. It will continue to reflect each change. Also, each of the old rule numbers and titles in the rule book contains a cross reference to the new rule number and title.

5. Certain changes herein relax present requirements. No substantive changes are made which impose additional burdens or remove provisions relied upon by licensees or the public. The following sets forth in detail the changes made in this *Order*:

(a) A shortcoming of the structure and format of the rule book for AM, FM and TV station licensees has been the failure to locate *all* regulations in one Volume of the rules.

While Volume III now holds most rules for the broadcast services, a very important segment is located in Volume I.

Part 1, Volume I, includes Subpart D, which contains *only* broadcast regulations. This Subpart is entitled "Broadcast Applications and Proceedings." In Subpart D are found the FCC's regulations pertaining to:

EBS authorizations;
Filing of applications;
Application forms and filing requirements pertaining thereto;
Station public file;
Application processing procedures;
Application actions; and
Report filings.

With the adoption on July 12, 1978, of the Reregulation *Order*, FCC 78–502, 43 FR 32778, the Commission stated that one of its goals in reorganizing and reformatting the rule book was to "look toward a rule book setting forth, in Part 73 of Volume III, all rules applicable to the broadcast services." In this regard the Commission further stated:

"Rules in Volume I which are applicable *exclusively* to broadcasting would be removed therefrom and consolidated into Part 73, Volume III. Rules which are applicable to other communications services, as well as to broadcasting, would be left in Volume I * * * Thus, Volume I would be undisturbed except for removal of Subpart D, Broadcast Applications and Procedures."

The Commission now removes those broadcast rules from Subpart D, Part 1, Volume I, to Subpart H, Part 73, Volume III.

(b) In making this restructing change, the following should be pointed out:

(i) All section numbers will fall into a new § 73.3000 series in Subpart H.

(ii) The rule sections pertaining to applications will be entered in Subpart H of Part 73, grouped under separate undesignated headnotes, by the general subject matter of particular rules. The headnotes will be designated as:

FILING OF APPLICATIONS

APPLICATION PROCESSING

ACTION ON APPLICATIONS

There are 30 rules that will fall under "Filing of Applications;" 15 rules under "Application Processing;" and 10 rules under "Action on Applications." A different, more expeditious alphabetical indexing will be used here. The 55 rules would result in some 100 plus entries in the index (*i.e.* "Filing of Applications" and "Applications, Filing of," etc.). Instead, we will enter the undesignated headnotes only into the index, with Sections shown as §§ 73.3511—73.3550.

(iii) In order to uncomplicate this move of rules from Volume I to III as much as possible for the public, professional advisors to licensees (viz: attorneys and engineers) and for broadcasters themselves, we are creating a "twin numbering" of the new

Sections in Part 73 vis-a-vis the Section numbers in Part 1. So, as an example, those who are familiar with "Specification of Applications" as § 1.516, Volume I, will, in the Volume III numbering, find it in the 73.3000 series numbered as § 73.3516. Such twin-numbering of the new section numbers and retention of section titles will forestall any possibility of invalidating familiar, specific and important knowledge, accrued over years of usage by licensees and their advisors.

(iv) The numbers and titles of the various application and report forms have heretofore been listed or identified only in separate rules on filing procedures. They have been somewhat difficult to find. They will be consolidated and listed in new § 73.3500 by Form or Report number and title.

(v) New § 73.3511, "Applications required," is embellished by adding the text of old § 1.531, "Formal and informal applications." The end product is more concise and more complete than the former two separate Sections. Section 1.531 is deleted and cross reference is made to new § 73.3511.

(vi) Section 1.513 (redesignated § 73.3513), "Who may sign applications," has been retitled, "Signing of applications." Paragraph (a) has been amended to simplify and clarify the requirements for signing applications.

(vii) Section 1.525, "Agreements between parties for amendment or dismissal of, or failure to prosecute broadcast applications", was, upon being transferred to, and renumbered § 73.3525, retitled "Agreements for removing application conflicts."

(viii) The rules pertaining to records maintained for local public inspection are retitled "Local public inspection file of commercial stations" (or "* * * of noncommercial educational stations.") and renumbered § 73.3526 and § 73.3527, respectively. In § 73.3526, cross references to community surveys (text of which is in (a) (11) and (12)), were inadvertently omitted when this rule was modified by the Commission adoption of the ascertainment *First Report and Order* on December 15, 1975. The references are added to paragraphs (a) and (e), as one of the clarifications made herein.

(ix) By *Order* adopted November 2, 1978, the FCC simplified the licensing procedures for broadcast stations having multiple transmitters (viz. main, alternate main, and auxiliary transmitters). Although that *Order* included rules for the procedures to license a new auxiliary antenna, it omitted procedures for licensing a former main antenna as an auxiliary where no new construction is required. New § 73.3537 covers this procedure by indicating that license applications FCC Forms 302 or 341 are to be used.

(x) The present § 1.538, "Application for modification of station license," includes procedures for obtaining a revised license in situations where both prior authority for the changes is and is not required. There are other types of license modifications not included in the rule which are covered on an ad hoc basis. To clearly indicate the filing procedures, whether formal or informal, two new rules are established to cover changes in the station and the station authorization. Section 73.3538, "Application to make changes in an existing station," describes the types of changes where prior FCC authorization is required. New § 73.3544, "Application to obtain a modified station license," contains the procedures for obtaining a revised station license to cover changes for which prior FCC authority is not required. One procedural change covered by the new rules is to replace the formal application filing requirement using FCC Form 301 or FCC Form 340 with an informal letter request to cover a change in the business name of a licensee involving no change in ownership or control of the station.

(xi) Section 1.540 (new § 73.3540), "Application for voluntary assignment or transfer of control," has been revised for simplicity and clarity. The provisions of former paragraph (a) are now included in paragraphs (a) through (d). Former paragraph (b) on use of the "short form" is now paragraph (e).

(xii) The rule § 1.547, "Application for permission to use lesser grade operators," was originally written for stations at which first class operators were required to be on duty at the transmitter during all hours of operation. The rule included procedures a licensee could use to obtain permission to use lesser grade operators on a temporary basis when a sufficient number of first class operators could not be employed to maintain the normal operating schedule. Several years ago this rule was amended to cover the appointment of a pro-tem chief operator when the regular full-time chief was incapacitated. Because of the numerous revisions in the operator requirement rules for radio stations made since 1952, when all stations required full-time first class operators, the rule has been restructured to conform with the current operator requirements. The rule is redesignated as § 73.3547 and is retitled "Requests for temporary permission to use lesser grade operators or pro-tem, nonfull-time chief operators."

(xiii) New § 73.3548 is a revision of previous rule Section 1.548, "Application to operate by remote control," to reflect the revised and simplified remote control application requirements adopted by the FCC in the *Order* of September 22, 1978.

(xiv) Paragraphs (b)(3) and (c)(3) in § 73.3569 (formerly § 1.569), "Applications for frequencies adjacent to Class I–A channels," have been revised to delete references to the routine processing of applications filed prior to October 30, 1961, which complied with the provisions of the existing rules. These paragraphs, retained as revised, cover only those applications filed prior to that date which did not comply with the standards specified.

(xv) The Note at the end of the rule previously numbered § 1.571 (new § 73.3571) is deleted as the date limitations (July 13, 1964, and July 18, 1968) are no longer applicable, and the other provisions of the Note are fully covered in existing §§ 73.24 and 73.37.

(xvi) The title of § 1.573 (new § 73.3573), "Processing of FM and noncommercial educational FM broadcast applications," has been revised to "Processing FM broadcast and translator station applications." Note 1 has been deleted, since the same data are already included in §§ 73.501, 73.504, 73.507, 73.509, 73.510 and 73.511. Note 2 (defining change in area) has been deleted, and the text is added to subparagraph (a)(1). Former Note 3 is the only remaining Note. It has been expanded to clarify the matter of acceptance for filing and the processing of applications for new low-power educational FM stations.

(xvii) Section 1.580, "Local notice of the filing of broadcast applications, and timely filing of petitions to deny them" may be *the* prime example of a rule that has been modified (patched) once too often. Some of the continuity and clarity has been lost in the many modifications.

—Excised will be an effective date proviso which has become non-applicable after the passage of two decades, but survives in the text in paragraph (k). The purpose in stating the date of December 12, 1960, was to show the effective date of Pub. L. 86–752, amending Sections 309 and 311(a) of the Communications Act. With the passage of time (18 years), we find that no further applications affected by this date are pending.

—An important part of the rule, inadvertently deleted in one of the successive modifications, is returned herein in paragraph (a) of § 73.3584, Petitions to deny. This rule basically

advises that "Any party in interest may file a petition to deny a broadcast application." The rule requires that such "petitions * * * shall contain specific allegations of fact * * *," and that such allegations must be supported by affidavit. Research establishes that this proviso was deleted by printing error.[1] It is herein returned to paragraph (a) of § 73.3584, Petitions to deny. Petitions to deny (applications) was adopted as a new rule and designated as § 1.584. It was formerly a part of § 1.580, Local notice of filing of broadcast applications, and timely filing of petitions to deny them. Sections 1.580 and 1.584 are redesignated §§ 73.3580 and 73.3584, respectively.

—Paragraphs (i) Reserved and (j) Reserved are deleted from § 73.3580 herein; paragraph (k) and the text thereto and paragraph (1) (Reserved) are also deleted. Paragraph (m) is renumbered (i).

—Rewriting is performed on all surviving paragraphs as needed.

(xviii) New § 73.3591 has a shortened title from that which headed old § 1.591. New title: "Grants without hearing" (Shortened from "Grants without hearing of authorizations other than licenses pursuant to construction permits.") The opening text of the revised rule clearly states the exception deleted from the title. Also, the Note following paragraph (b)(3) of this section is modified, removed from its Note position and added to subparagraph (b)(1) where it properly belongs.

(xix) New § 73.3592(b) has been amended to include AM and FM in the provision that, where two or more applications for the same facility have been designated for hearing, the FCC may make a conditional grant to a group composed of two or more of the competing applicants. The provision in (b) has applied only to TV applicants. No good reason appears for exclusion of AM and FM applicants from the provision.

(xx) References to an SCA held for less than three years not figuring in the "three year rule" for assignments or transfers are clarified in § 73.3597. The paragraph—(a)(1)—is revised, and the SCA reference is moved to paragraph (c), where it more properly belongs.

(xxi) The filing of reports on an annual or other basis include, for AM, FM and TV station licensees: financial reports, employment reports, ownership reports, and, for TV station licensees only, annual programming reports. In addition, all licensees must file certain data found in such instruments as contracts, or certain documents. These rules encompass 5 Sections and will be incorporated under the undesignated headnote, "FILING OF REPORTS AND CONTRACTS." The five rules will be indexed separately. A new "TV programming report" rule section will be entered as § 73.3610 along with current report rules, already in the rule book, regarding financial (new § 73.3611), employment (new § 73.3612), ownership (new § 73.3613) and the filing of contracts (new § 73.3615). Reporting of TV programming is, or course, a current FCC requirement appearing in other parts of the rules (i.e., "Records to be maintained * * * for public inspection" and as part of the ascertainment and renewal of license requirements) but had never been added to the other reporting requirements in this part of the rules.

(xxii) Until October 5, 1978, the rule pertaining to forfeitures for broadcast licensees and permittees was to be found in Subpart D, Part 1 of Volume I in § 1.621. On the October 5th date, the Commission adopted the *Order*, "In the Matter of Implementation of Pub. L. 95–234, Forfeiture procedures," FCC 78–709. New rule § 1.80, "Forfeiture proceedings," replaced all former rule sections wherein forfeiture rules were set forth.[2] The new § 1.80 became a part of Subpart A of Part 1 (General Rules of Practice and Procedure). We will, therefore, not transfer it *in toto* to Subpart H of Part 73, with the other Subpart D, Part 1, rules.

(c) Section 1.502, Emergency Broadcast System Authorizations, is deleted in its entirety. Requirements pertaining to authorizations are found in Subpart G, Part 73, Emergency Broadcast System (§ 73.913); also, the terms and designations found in § 1.502 are, for the most part, out of date and no longer used. A new paragraph, (c), is added to § 73.913 informing the rule user how to apply for an EBS authorization.

(d) Revisions are made in § 73.1010, "Cross reference to rules in other parts," to conform to the transfer of Subpart D, of Part 1, to Subpart H of Part 73. References to Subpart D are deleted and the succeeding paragraphs in § 73.1010 are renumbered.

(e) The Part 73 Alphabetical Index is revised to reflect the rule changes described herein. (Attached as Appendix B.)

6. We conclude that, for the reasons set forth above, adoption of these revisions will serve the public interest, and inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

7. Therefore, it is ordered, that pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, the Commission's rules and regulations are amended as set forth in the attached Appendix A, effective July 9, 1979.

8. For further information on this *Order*, contact Steve Crane, Phil Cross or John Reiser, Broadcast Bureau, (202) 632–9660.

Federal Communications Commission.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

William J. Tricarico,

Secretary.

Appendix A

PART 1—PRACTICE AND PROCEDURE

Undesignated Headnote "General" [Deleted]

1. Undesignated headnote "General", which immediately follows Subpart title, "Subpart D—Broadcast Applications and Proceedings," in Part 1 Volume I, is deleted.

§ 1.501 [Deleted]

2. Section 1.501, Scope, is deleted in its entirety.

3. Section 1.502, headnote and text are amended to read as follows:

§ 1.502 Emergency Broadcast Authorizations.

See § 73.913.

4. Section 1.511 is amended to read as follows:

§ 1.511 Applications required.

See § 73.3511.

5. Section 1.512 is amended to read as follows:

§ 1.512 Where to file; number of copies.

See § 73.3512.

[1] In a *Notice of Proposed Rule Making* to amend this Section (Docket No. 20505), Appendix A contained a proposal to add a provision to the first part of paragraph (i) and retain the rest of the existing text (using the prescribed method of five asterisks, meaning, retain what follows). However, in the reproduction of the Appendix, the asterisks did not print. Absent the asterisks, the *Report and Order* omitted what was supposed to have been retained.

[2] These Section numbers and titles were: § 1.80 ("Forfeiture proceedings (excluding those pertaining to broadcast licensees and permittees or ship and shipmasters)"); § 1.81 ("Other forfeiture procedures; cross references"); § 1.621 ("Forfeitures relating to broadcast licensees and permittees"); and § 1.991 ("Forfeitures against ships and ships masters").

6. Section 1.513 is amended to read as follows:

§ 1.513 Who may sign applications.

See § 73.3513.

7. Section 1.514 is amended to read as follows:

§ 1.514 Content of applications.

See § 73.3514.

8. Section 1.516 is amended to read as follows:

§ 1.516 Specification of facilities.

See § 73.3516.

9. Section 1.517 is amended to read as follows:

§ 1.517 Contingent applications.

See § 73.3517.

10. Section 1.518 is amended to read as follows:

§ 1.518 Inconsistent or conflicting applications.

See § 73.3518.

11. Section 1.519 is amended to read as follows:

§ 1.519 Repetitious applications.

See § 73.3519.

12. Section 1.520 is amended to read as follows:

§ 1.520 Multiple applications.

See § 73.3520.

13. Section 1.522 is amended to read as follows:

§ 1.522 Amendment of applications.

See § 73.3522.

14. Section 1.525 is amended to read as follows:

§ 1.525 Agreements between parties for amendment or dismissal of, or failure to prosecute, broadcast applications.

See § 73.3525.

15. Section 1.526 is amended to read as follows:

§ 1.526 Records to be maintained locally for public inspection by commercial applicants, permittees and licensees.

See § 73.3526.

16. Section 1.527 is amended to read as follows:

§ 1.527 Records to be maintained locally for public inspection by noncommercial educational applicants, permittees and licensees.

See § 73.3527.

Undesignated Headnote "Application Forms and Particular Filing Requirements" [Deleted]

17. Undesignated headnote, "Application Forms and Particular Filing Requirements," which precedes § 1.531, is deleted.

18. Section 1.531 is amended to read as follows:

§ 1.531 Formal and informal applications.

See § 73.3511.

19. Section 1.533 is amended to read as follows:

§ 1.533 Application forms for authority to construct a new station or make changes in an existing station.

See § 73.3533.

20. Section 1.534 is amended to read as follows:

§ 1.534 Application for extension of construction permit or for construction permit to replace expired construction permit.

See § 73.3534.

21. Section 1.536 is amended to read as follows:

§ 1.536 Application for license to cover construction permit.

See § 73.3536.

22. Section 1.538 is amended to read as follows:

§ 1.538 Application for modification of license.

See § 73.3538.

23. Section 1.539 is amended to read as follows:

§ 1.539 Application for renewal of license.

See § 73.3539.

24. Section 1.540 is amended to read as follows:

§ 1.540 Application for voluntary assignment or transfer of control.

See § 73.3540.

25. Section 1.541 is amended to read as follows:

§ 1.541 Application for involuntary assignment of license or transfer of control.

See § 73.3541.

26. Section 1.542 is amended to read as follows:

§ 1.542 Application for temporary authorization.

See § 73.3542.

27. Section 1.543 is amended to read as follows:

§ 1.543 Application for renewal or modification of special service authorization.

See § 73.3543.

28. Section 1.544 is amended to read as follows:

§ 1.544 Application for broadcast station to conduct field strength measurements and for experimental operation.

See §§ 73.157 and 73.1510.

29. Section 1.545, headnote and text are amended to read as follows:

§ 1.545 Application for permit to deliver programs to foreign countries.

See § 73.3545.

30. Section 1.546 is amended to read as follows:

§ 1.546 Application to determine operating power by direct measurement of antenna power.

See § 73.45.

31. Section 1.547 is amended to read as follows:

§ 1.547 Application for permission to use lesser grade operators.

See § 73.3547.

32. Section 1.548 is amended to read as follows:

§ 1.548 Application to operate by remote control.

See § 73.3548.

33. Section 1.549 is amended to read as follows:

§ 1.549 Requests for extension of authority to operate without required monitors, indicating instruments, and EBS Attention Signal devices.

See § 73.3549.

34. Section 1.550 is amended to read as follows:

§ 1.550 Requests for new or modified call sign assignments.

See § 73.3550.

Undesignated headnote Application Processing Procedures [Deleted]

35. Undesignated headnote, "Application Processing Procedures," which precedes § 1.561, is deleted.

36. Section 1.561 is amended to read as follows:

§ 1.561 Staff consideration of applications which receive action by the Commission.

See § 73.3561.

37. Section 1.562 is amended to read as follows:

§ 1.562 Staff consideration of applications which do not require action by the Commission.

See § 73.3562.

38. Section 1.564 is amended to read as follows:

§ 1.564 Acceptance of applications.

See § 73.3564.

39. Section 1.566 is amended to read as follows:

§ 1.566 Defective applications.

See § 73.3566.

40. Section 1.568 is amended to read as follows:

§ 1.568 Dismissal of applications.

See § 73.3568.

41. Section 1.569 is amended to read as follows:

§ 1.569 Applications for frequencies adjacent to Class I–A channels.

See § 73.3569.

42. Section 1.570, headnote and text are amended to read as follows:

§ 1.570 AM broadcast station applications involving other North American countries.

See § 73.3570.

43. Section 1.571, headnote and text are amended to read as follows:

§ 1.571 Processing AM broadcast station applications.

See § 73.3571.

44. Section 1.572, headnote and text are amended to read as follows:

§ 1.572 Processing TV broadcast and translator station applications.

See § 73.3572.

45. Section 1.573, headnote and text are amended to read as follows:

§ 1.573 Processing FM broadcast and translator station applications.

See § 73.3573.

46. Section 1.574, headnote and text are amended to read as follows:

§ 1.574 Processing of international broadcast station applications.

See § 73.3574.

47. Section 1.578, headnote and text are amended to read as follows:

§ 1.578 Amendments to applications for renewal, assignment or transfer of control.

See § 73.3578.

48. Section 1.580, headnote and text are amended to read as follows:

§ 1.580 Local public notice of filing of broadcast applications.

See § 73.3580.

49. Section 1.584, headnote and text are amended to read as follows:

§ 1.584 Petitions to deny.

See § 73.3584.

50. Section 1.587, headnote and text are amended to read as follows:

§ 1.587 Procedure for filing informal applications.

See § 73.3587.

Undesignated Headnote "Action on Applications" [Deleted]

51. Undesignated headnote "Action on Applications," which precedes § 1.591, is deleted.

52. Section 1.591, headnote and text are amended to read as follows:

§ 1.591 Grants without hearing.

See § 73.3591.

53. Section 1.592 is amended to read as follows:

§ 1.592 Conditional grant.

See § 73.3592.

54. Section 1.593 is amended to read as follows:

§ 1.593 Designation for hearing.

See § 73.3593.

55. Section 1.594, headnote and text are amended to read as follows:

§ 1.594 Local public notice of designation for hearing.

See § 73.3594.

56. Section 1.597 is amended to read as follows:

§ 1.597 Procedures on transfer and assignment applications.

See § 73.3597.

57. Section 1.598 is amended to read as follows:

§ 1.598 Period of construction.

See § 73.3598.

58. Section 1.599 is amended to read as follows:

§ 1.599 Forfeiture of construction permit.

See § 73.3599.

59. Section 1.601, headnote and text are amended to read as follows:

§ 1.601 Simultaneous modification and renewal of license.

See § 73.3601.

60. Section 1.603 is amended to read as follows:

§ 1.603 Special waiver procedure relative to applications.

See § 73.3603.

61. Section 1.605 is amended to read as follows:

§ 1.605 Retention of applications in hearing status after designation for hearing.

See § 73.3605.

Undesignated Headnote "Forms and Information to be Filed with the Commission" [Deleted]

62. Undesignated headnote, "Forms and Information to be Filed with the Commission," which precedes § 1.611, is deleted.

63. Section 1.611 is amended to read as follows:

§ 1.611 Financial report.

See § 73.3611.

64. Section 1.612 is amended to read as follows:

§ 1.612 Annual employment report.

See § 73.3612.

65. Section 1.613 is amended to read as follows:

§ 1.613 Filing of contracts.

See § 73.3613.

66. Section 1.615 is amended to read as follows:

§ 1.615 Ownership reports.

See § 73.3615.

PART 73—RADIO BROADCAST SERVICES

67. Section 73.913 is amended to add new paragraph (c) as follows:

§ 73.913 Emergency Broadcast System Authorizations.

* * * * *

(c) Any non-participating broadcast station may request an EBS authorization by making such request via informal letter to the FCC in Washington, D.C. 20554.

68. Section 73.1010, "Cross reference to rules in other Parts," is revised to delete paragraph (a)(4) and renumber paragraphs (a)(5) through (a)(7) as (a)(4), (a)(5) and (a)(6). The revised rule will read as follows:

§ 73.1010 Cross reference to rules in other Parts.

Certain rules applicable to broadcast services, some of which are also applicable to other services, are set forth in the following Volumes and Parts of the FCC Rules and Regulations:

(a) Part 1 (Volume I). "Practice and Procedure."

(1) Subpart A, "General Rules of Practice and Procedure" (§§ 1.1 to 1.120).

(2) Subpart B, "Hearing Proceedings" (§§ 1.201 to 1.363).

(3) Subpart C, "Rule Making Proceedings" (§§ 1.399 to 1.430).

(4) Subpart G, "Schedule of Fees" (§§ 1.1101 to 1.1120).

(5) Subpart H, "Ex Parte Presentations" (§§ 1.1201 to 1.1251).

(6) Subpart I, "Procedures Implementing the National Environmental Policy Act of 1969" (§§ 1.1301 to 1.1319).

(b) Part 2 (Volume II), "Frequency Allocations and Radio Treaty Matters, General Rules and Regulations," including Subparts A, "Definitions," B, "Allocation, Assignments, and Use of Radio Frequencies," C, "Emissions," D, "Call Signs and Other Forms of Identifying Radio Transmissions," G, "Treaties and Other International Agreements," and J, "Equipment Authorization Procedures—Type Approval; Type Acceptance; Certification."

(c) Part 13 (Volume I), "Commercial Radio Operators."

(d) Part 17 (Volume I), "Construction, Marking, and Lighting of Antenna Structures."

(e) Part 74 (Volume III), "Experimental, Auxiliary and Special Broadcast, and Other Program Distributional Service" including Subparts on the following stations: A, "Experimental Television—," B, "Experimental Facsimile—," C, "Developmental—," "Remote Pickup—," E, "Aural STL and Intercity Relay—," F, "Television Auxiliary—," G, "Television Broadcast Translator—," H, "Low Power Auxiliary—," I, "Instructional Television Fixed Service," L, "FM Translator and Booster—."

69. New § 73.3500 is added to Subpart H, Part 73, to read as follows:

§ 73.3500 Application and report forms.

Following are the FCC broadcast application and report forms, listed by number.

Form number	Title
301	Application for Authority to Construct or Make Changes in a Commercial Broadcast Station.
301-A	Application for Authority to Operate a Broadcast Station by Remote Control or to Make Changes in a Remote Control Authorization.
302	Application for New Commercial Broadcast Station License.
303	Application for Renewal of License for Commercial TV Broadcast Station.
303-A	Annual Programming Report.
303-R	Application for Renewal of License for Commercial AM or FM Broadcast Station.
308	Application for Permit to Deliver Programs to Foreign Broadcast Stations.
309	Application for Authority to Construct or Make Changes in an International, Experimental Television, Experimental Facsimile, or Developmental Broadcast Station.
310	Application for an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License.
311	Application for Renewal of an International, Experimental TV, Experimental Facsimile, or a Developmental Broadcast Station License.
313	Application for Authorization in the Auxiliary Broadcast Services.
313-R	Application for Renewal of Auxiliary Broadcast License (Short Form).
314	Application for Consent to Assignment of Broadcast Construction Permit or License.
315	Application for Consent to Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License.
316	Application for Consent to Assignment of Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License.
318	Request for Subsidiary Communications Authorization.
321	Application for Construction Permit to Replace Expired Permit.
323	Ownership Report.
323-E	Ownership Report for Noncommercial Educational Broadcast Station.
324	Annual Financial Report of Networks and Licensees of Broadcast Stations.
324-A	Annual Financial Report of Broadcast Networks.
330-L	Application for Instructional Television Fixed Station License.
330-P	Application for Authority to Construct or Make Changes in an Instructional TV Fixed Station and/or Response Station(s) and Low Power Relay Station(s).
330-R	Application for Renewal of Instructional TV Fixed Station and/or Response Station(s) and Low Power Relay Station(s) License.
340	Application for Authority to Construct or Make Changes in a Noncommercial Educational Broadcast Station.
341	Application for a New Noncommercial Educational Broadcast Station License.
342	Application for Renewal of Noncommercial Educational Broadcast Station License.
345	Application for Consent to Assignment of a TV or FM Translator Station Construction Permit or License.
346	Application for Authority to Construct or Make Changes in a TV or FM Translator Station.
347	Application for a TV or FM Broadcast Translator Station License.
348	Application for Renewal of TV or FM Broadcast Translator Station License.
349-L	Application for an FM Booster Station License.
349-P	Application for Authority to Construct or Make Changes in an FM Booster Station.
349-R	Application for Renewal of FM Booster Station License.
395	Annual Employment Report and Instructions.
701	Application for Additional Time to Construct Radio Station.

70. A new undesignated headnote, FILING OF APPLICATIONS, is added to Part 73, Subpart H, immediately preceding § 73.3511, Applications required.

Filing of Applications

71. New Section 73.3511 is added to Subpart H, Part 73, to read as follows:

§ 73.3511 Applications required.

(a) "Formal application" means any request for authorization where an FCC form for such request is prescribed. The prescription of an FCC form includes the requirement that the proper edition of the form is used. Formal applications on obsolete forms are subject to the provisions of § 73.3564 concerning acceptance of applications and § 73.3566 concerning defective applications.

(b) "Informal application" means all other written requests for authorization. All such applications should contain a caption clearly indicating the nature of the request submitted therein.

(c) Formal and informal applications must comply with the requirements as to signing specified herein and in § 73.3513.

(d) In cases of emergency found by the FCC involving danger to life or property or due to damage to equipment, or during a national emergency proclaimed by the President or declared by the Congress and during the continuance of any war in which the United States is engaged, and when such action is necessary for the national defense or security or otherwise in furtherance of the war effort, the FCC may grant construction permits and station licenses, or modifications or renewals thereof, without the filing of a formal application; but no authorization so granted shall continue in effect beyond the period of the emergency or war requiring it. Each individual request submitted under the provisions of this paragraph shall contain, as a minimum requirement, the following information:

(1) Name and address of applicant.

(2) Location of proposed installation or operation.

(3) Official call letters of any valid station authorization already held by applicant and the station location.

(4) Type of service desired (not required for renewal, nor for modification unless class of station is to be modified).

(5) Frequency assignment, authorized transmitter power(s), and authorized class(es) of emission desired (not required for renewal; required for modification only to the extent such information may be involved).

(6) Equipment to be used, specifying the manufacturer and type or model number (not required for renewal; required for modification only to the extent such information may be involved).

(7) Statements to the extent necessary for the FCC to determine whether or not the granting of the desired authorization will be in accordance with the citizenship eligibility requirements of Section 310 of the Communications Act.

(8) Statement of facts which, in the opinion of the applicant, constitute an emergency to be found by the FCC for the purpose of this Section, including the estimated duration of the emergency; or which, if during an emergency or war declared by the President or Congress, necessitate such action, without formal application, for the national defense or security or in furtherance of the war effort.

72. New § 73.3512 is added to Subpart H, Part 73, to read as follows:

§ 73.3512 Where to file; number of copies.

All applications for authorizations required by § 73.3511 shall be filed at the FCC in Washington, D.C. The number of copies required for each application is set forth in the FCC Form

which is to be used in filing such application.

73. New § 73.3513 is added to Subpart H, Part 73, to read as follows:

§ 73.3513 Signing of applications.

(a) Applications, amendments thereto, and related statements of fact required by the FCC must be signed by the following persons:

(1) *Individual Applicant.*

The applicant, if the applicant is an individual.

(2) *Partnership.*

One of the partners, if the applicant is a partnership.

(3) *Corporation.*

An officer, if the applicant is a corporation.

(4) *Unincorporated Association.*

A member who is an officer, if the applicant is an unincorporated association.

(5) *Governmental Entity.*

Such duly elected or appointed officials as may be competent to do so under the law of the applicable jurisdiction, if the applicant is an eligible governmental entity, such as a State or Territory of the United States and political subdivisions thereof, the District of Columbia, and a unit of local government, including an unincorporated municipality.

(b) Applications, amendments thereto, and related statements of fact required by the FCC may be signed by the applicant's attorney in case of the applicant's physical disability or of his absence from the United States. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact, need be signed; copies may be conformed.

(d) Applications, amendments, and related statements of fact need not be submitted under oath. Willful false statements made therein, however, are punishable by fine and imprisonment, U.S. Code, Title 18, Section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to Section 312(a)(1) of the Communications Act.

74. New § 73.3514 is added to Subpart H, Part 73, to read as follows:

§ 73.3514 Content of applications.

(a) Each application shall include all information called for by the particular form on which the application is required to be filed, unless the information called for is inapplicable, in which case this fact shall be indicated.

(b) The FCC may require an applicant to submit such documents and written statements of fact as in its judgment may be necessary. The FCC may also, upon its own motion or upon motion of any party to a proceeding, order the applicant to amend the application so as to make it more definite and certain.

75. New § 73.3516 is added to Subpart H, Part 73, to read as follows:

§ 73.3516 Specification of facilities.

(a) An application for facilities in the AM, FM or TV broadcast services shall be limited to one frequency, or channel assignment, and no application will be accepted for filing if it requests alternate frequency or channel assignments.

(b) An application for facilities in the experimental and auxiliary broadcast services may request the assignment of more than one frequency if consistent with applicable rules in Part 74. Such applications must specify the frequency or frequencies requested and may not request alternate frequencies.

(c) An application for a construction permit for a new broadcast station, the facilities for which are specified in an outstanding construction permit or license, will not be accepted for filing. However, an application for a 1,000-watt TV translator station to operate on a UHF channel listed in the TV Table of Assignments (see § 73.606) on which a TV station is authorized but not operating, will be accepted for filing and may be granted. An applicant for such a translator station shall notify the permittee or licensee of such UHF TV station, in writing, of the filing of the application at the time the application is filed and shall certify to the FCC that such notice has been given.

(d) An application for facilities in the International broadcast service may be filed without a request for specific frequency, as the FCC will assign frequencies from time to time in accordance with §§ 73.702 and 73.711.

(e) An application for a construction permit for a new broadcast station or for modification of construction permit or license of a previously authorized broadcast station will not be accepted for filing if it is mutually exclusive with an application for renewal of license of an existing broadcast station unless it is tendered for filing by the end of the first day of the last full calendar month of the expiring license term.

(1) If the license renewal application is not timely filed as prescribed in § 73.3539, the deadline for filing applications mutually exclusive therewith is the 90th day after the FCC gives public notice that it has accepted the late-filed renewal application for filing.

(2) If any deadline falls on a nonbusiness day, the cutoff shall be the close of business of the first full business day thereafter.

(3) The dates when the licenses of all broadcast and broadcast auxiliary services regularly expire are listed in §§ 73.733, 73.1020 and 74.15.

76. New § 73.3517 is added to Subpart H, Part 73, to read as follows:

§ 73.3517 Contingent applications.

Ordinarily, contingent applications for changes in facilities of existing broadcast stations are not acceptable for filing. Such applications, however, may be filed under the circumstances cited below.

(a) Upon the filing of an application for the assignment of a license or construction permit, or for a transfer of control of a licensee or permittee, the proposed assignee or transferee may, upon payment of the filing fee prescribed in §1.1111 of this chapter, file applications in its own name for authorization to make changes in the facilities to be assigned or transferred contingent upon approval and consummation of the assignment or transfer. Any application filed pursuant to this paragraph must be accompanied by a written statement from the existing licensee which specifically grants permission to the assignee or transferee to file such application. The filing fee will not be refundable should the assignment or transfer not be approved. The existing licensee or permittee may also file a contingent application in its own name, but fees in such cases are also not refundable.

(b) Whenever the FCC determines that processing of any application filed pursuant to paragraph (a), of this section, would be contrary to sound administrative practice or would impose an unwarranted burden on its staff and resources, the FCC may defer processing of such application until the assignment or transfer has been granted and consummated.

77. New § 73.3518 is added to Subpart H, Part 73, to read as follows:

§ 73.3518 Inconsistent or conflicting applications.

While an application is pending and undecided, no subsequent inconsistent or conflicting application may be filed by or on behalf of or for the benefit of the same applicant, successor or assignee.

78. New § 73.3519 is added to Subpart H, Part 73, to read as follows:

§ 73.3519 Repetitious applications.

(a) Where the FCC has denied an application for a new station or for any modification of services or facilities, or dismissed such application with prejudice, no like application involving service of the same kind for substantially the same area by substantially the same applicant, or his successor or assignee, or on behalf or for the benefit of the original parties in interest, may be filed within 12 months from the effective date of the FCC's action. However, applicants whose applications have been denied in a comparative hearing may apply immediately for another available facility.

(b) Where an appeal has been taken from the action of the FCC in denying a particular application, another application for the same class of broadcast station and for the same area, in whole or in part, filed by the same applicant, or his successor or assignee, or on behalf of, or for the benefit of the original parties in interest, will not be considered until final disposition of such appeal.

79. New § 73.3520 is added to Subpart H, Part 73, to read as follows:

§ 73.3520 Multiple applications.

Where there is one application for new or additional facilities pending, no other application for new or additional facilities for a station of the same class to serve the same community may be filed by the same applicant, or successor or assignee, or on behalf of, or for the benefit of the original parties in interest. Multiple applications may not be filed simultaneously.

80. New § 73.3522 is added to Subpart H, Part 73, to read as follows:

§ 73.3522 Amendment of applications.

(a) *Predesignation amendment.* (1) Subject to the provisions of §§ 73.3525, 73.3571, 73.3572, 73.3573 and 73.3580, and except as provided in paragraph (a)(2) of this section, any application may be amended as a matter of right prior to the adoption date of an order designating such application for hearing, merely by filing the appropriate number of copies of the amendments in question duly executed in accordance with § 73.3513. If a petition to deny (or to designate for hearing) has been filed, the amendment shall be served on the petitioner.

(2) Subject to the provisions of §§ 73.3525, 73.3571, 73.3572, 73.3573 and 73.3580, mutually exclusive broadcast applications may be amended as a matter of right within 30 days after the cutoff date specified for the last-file application. Subsequent amendments prior to designation of the proceeding for hearing will be considered only upon a showing of good cause for late filing or in response to FCC letters concerning deficiencies in or problems with the application. See §§ 1.65 and 73.3514.

(b) *Postdesignation amendment.* (1) Except as provided in paragraph (b)(2) of this section, requests to amend an application after it has been designated for hearing will be considered only upon written petition properly served upon the parties of record in accordance with § 1.47 and, where applicable, compliance with the provisions of § 73.3525, and will be considered only upon a showing of good cause for late filing. In the case of requests to amend the engineering proposal (other than to make changes with respect to the type of equipment specified), good cause will be considered to have been shown only if, in addition to the usual good cause consideration, it is demonstrated:

(i) That the amendment is necessitated by events which the applicant could not reasonably have foreseen (e.g., notification of a new foreign station or loss of transmitter site by condemnation); and

(ii) That the amendment does not require an enlargement of issues or the addition of new parties to the proceeding.

(2) In comparative broadcast cases (including comparative renewal proceedings), amendments relating to issues first raised in the designation order may be filed as a matter of right within 15 days after that Order is published in the **Federal Register.**

(c) Notwithstanding the provisions of paragraph (b) of this section, and subject to compliance with the provisions of § 73.3525, a petition for leave to amend may be granted, provided it is requested that the application as amended be removed from the hearing docket and returned to the processing line. See § 73.3571.

81. New § 73.3525 is added to Subpart H, Part 73, to read as follows:

§ 73.3525 Agreements for removing application conflicts.

(a) Whenever applicants for a construction permit for a broadcast station enter into an agreement to procure the removal of a conflict between applications pending before the FCC by withdrawal or amendment of an application or by its dismissal pursuant to § 73.3568, all parties thereto shall, within 5 days after entering into the agreement, file with the FCC a joint request for approval of such agreement. The joint request shall be accompanied by a copy of the agreement and an affidavit of each party to the agreement setting forth in full all relevant facts including, but not limited to:

(1) The exact nature of any consideration (including an agreement for merger of interests) promised or paid;

(2) Information as to who initiated the negotiations;

(3) Summary of the history of the negotiations;

(4) The reasons why it is considered that the arrangement is in the public interest; and

(5) A statement fully explaining and justifying any consideration paid or promised.

(b) The affidavit of any applicant to whom consideration is paid or promised shall, in addition, include an itemized accounting of the expenses incurred in connection with preparing, filing and advocating his application, and such factual information as the parties rely upon for the requisite showing that such reported expenses represent legitimate and prudent outlays. No such agreement between applicants shall become effective or be carried out unless and until the FCC has approved it, or until the time for FCC review of the agreement has expired.

(c) Whenever two or more conflicting applications for construction permits for broadcast stations pending before the FCC involve a determination of fair, efficient and equitable distribution of service pursuant to Section 307(b) of the Communications Act, and an agreement is made to procure the withdrawal (by amendment to specify a different community or by dismissal pursuant to § 73.3568) of the only application or applications seeking the same facilities for one of the communities involved, all parties thereto shall file the joint request and affidavits specified in paragraph (a) of this section.

(1) If upon examination of the proposed agreement the FCC finds that withdrawal of one of the applications would unduly impede achievement of a fair, efficient and equitable distribution of radio service among the several States and communities, then the FCC shall order that further opportunity be afforded for other persons to apply for the facilities specified in the application or applications to be withdrawn before acting upon the pending request for approval of the agreement.

(2) Upon release of such order, any party proposing to withdraw its application shall cause to be published a notice of such proposed withdrawal at

least twice a week for 2 consecutive weeks within the 3-week period immediately following release of the FCC's order, in a daily newspaper of general circulation published in the community in which it was proposed to locate the station. However, if there is no such daily newspaper published in the community, the notice shall be published as follows:

(i) If one or more weekly newspapers of general circulation are published in the community in which the station was proposed to be located, notice shall be published in such a weekly newspaper once a week for 3 consecutive weeks within the 4-week period immediately following the release of the FCC's order.

(ii) If no weekly newspaper of general circulation is published in the community in which the station was proposed to be located, notice shall be published at least twice a week for 2 consecutive weeks within the 3-week period immediately following the release of the FCC's order in the daily newspaper having the greatest general circulation in the community in which the station was proposed to be located.

(3) The notice shall state the name of the applicant; the location, frequency and power of the facilities proposed in the application; the location of the station or stations proposed in the applications with which it is in conflict; the fact that the applicant proposes to withdraw the application; and the date upon which the last day of publication shall take place.

(4) Such notice shall additionally include a statement that new applications for a broadcast station on the same frequency, in the same community, with substantially the same engineering characteristics and proposing to serve substantially the same service area as the application sought to be withdrawn, timely filed pursuant to the FCC's rules, or filed, in any event, within 30 days from the last date of publication of the notice (notwithstanding any provisions normally requiring earlier filing of a competing application), will be entitled to comparative consideration with other pending mutually exclusive affidavits.

(5) Within 7 days of the last day of publication of the notice, the applicant proposing to withdraw shall file a statement in triplicate with the FCC giving the dates on which the notice was published, the text of the notice and the name and location of the newspaper in which the notice was published.

(6) Where the FCC orders that further opportunity be afforded for other persons to apply for the facilities sought to be withdrawn, no application of any party to the agreement will be acted upon by the FCC less than 30 days from the last day of publication of the notice specified in paragraph (c)(2) of this section. Any applications for a broadcast station on the same frequency in the same community, with substantially the same engineering characteristics and proposing to serve substantially the same service area as the application sought to be withdrawn, filed within the 30-day period following the last date of publication of the notice (notwithstanding any provisions normally requiring earlier filing of a competing application), or otherwise timely filed, will be entitled to comparative consideration with other pending mutually exclusive applications. If the application of any party to which the new application may be in conflict has been designated for hearing, any such new application will be entitled to consolidation in the proceeding.

(d) Except where a joint request is filed pursuant to paragraph (a) of this section, any applicant filing an amendment pursuant to § 73.3522(a) or a request for dismissal pursuant to § 73.3568(a) which would remove a conflict with another pending application; or a petition for leave to amend pursuant to § 73.3522 (b) or (c) which would permit a grant of the amended application or an application previously in conflict with the amended application; or a request for dismissal pursuant to § 73.3568(c), shall file with it an affidavit as to whether or not consideration (including an agreement for merger of interests) has been promised to or received by such applicant, directly or indirectly, in connection with the amendment, petition or request.

(e) Upon the filing of a petition for leave to amend or to dismiss an application for broadcast facilities which has been designated for hearing or upon the dismissal of such application on the FCC's own motion pursuant to § 73.3568(b), each applicant or party remaining in hearing, as to whom a conflict would be removed by the amendment or dismissal shall submit for inclusion in the record of that proceeding an affidavit stating whether or not he has directly or indirectly paid or promised consideration (including an agreement for merger of interests) in connection with the removal of such conflict.

(f) Where an affidavit filed pursuant to paragraph (d) of this section states that consideration has been paid or promised, the affidavit shall set forth in full all relevant facts, including, but not limited to, the material listed in paragraph (a) of this section for inclusion in affidavits.

(g) Affidavits filed pursuant to this section shall be executed by the applicant, permittee or licensee, if an individual; a partner having personal knowledge of the facts, if a partnership; or an officer having personal knowledge of the facts, if a corporation or association.

(h) Requests and affidavits which relate to an application which has not been designated for hearing shall bear the file number of such application. If the affiant is also an applicant, the affidavit shall also bear the file number of affiant's pending application(s). Requests and affidavits which relate to an application which is designated for hearing shall bear the file number of that application and the hearing docket number and will be acted on by the presiding officer.

(i) For the purposes of this Section an application shall be deemed to be "pending" before the FCC and a party shall be considered to have the status of an "applicant" from the time an application is filed with the FCC until an order of the FCC granting or denying it is no longer subject to reconsideration by the FCC or to review by any court.

82. New § 73.3526 is added to Subpart H, Part 73, to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

(a) *Records to be maintained.* Every applicant for a construction permit for a new station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraph (a)(1) of this section. Every permittee or licensee of an AM, FM or TV station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraph (a) (1), (2), (3), (4), (5), (6), (7), (9), (11) and (12) of this section. In addition, every permittee or licensee of a TV station shall maintain for public inspection a file containing the materal described in paragraph (8) of this section The material to be contained in the file is as follows:

(1) A copy of every application tendered for filing, with respect to which local public notice is required to be given under the provisions of § 73.3580 or § 73.3594; and all exhibits, letters and other documents tendered for filing as part thereof; all amendments thereto, copies of all documents incorporated therein by reference, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of

Initial Decisions and Final Decisions in hearing cases pertaining thereto, which according to the provisions of §§ 0.451–0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the applicant, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition. The file shall also contain a copy of every written citizen agreement. For purposes of this Section, a citizen agreement is a written agreement between a broadcast applicant, permittee, or licensee, and one or more citizens or citizen groups, entered for primarily noncommercial purposes. This definition includes those agreements that deal with goals or proposed practices directly or indirectly affecting station operation in the public interest, in areas such as—but not limited to—community ascertainment, programming, and employment. It excludes common commercial agreements such as advertising contracts; union, employment, and personal services contracts; network affiliation, syndication, program supply contracts and so on. However, the mere inclusion of commercial terms in a primarily noncommercial agreement—such as a provision for payment of fees for future services of the citizen-parties (see "Report and Order," Docket 19518, 57 F.C.C. 2d 494 (1976))—would not cause the agreement to be considered commercial for purposes of this Section.

Notes.—Applications tendered for filing on or before May 13, 1965, which are subsequently designated for hearing after May 13, 1965, with local notice being given pursuant to the provisions of § 73.3594, and material related to such applications, need not be placed in the file required to be kept by this Section. Applications tendered for filing after May 13, 1965, which contain major amendments to applications tendered for filing on or before May 13, 1965, with local notice of the amending application being given pursuant to the provisions of § 73.3580, need not be placed in the file required to be kept by this section.

(2) A copy of every application tendered for filing by the licensee or permittee for such station which is not included in paragraph (a)(1) of this section and which involves changes in program service, which requests an extension of time in which to complete construction of a new station, or which requests consent to involuntary assignment or transfer, or to voluntary assignment or transfer not resulting in a substantial change in ownership or control and which may be applied for on FCC Form 316; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of all documents incorporated therein by reference, which according to the provisions of §§ 0.451–0.461 of this rule are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and there has been no change in the document since the date of filing and the licensee, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition.

(3) A copy of every ownership report or supplemental ownership report filed by the licensee or permittee for such station after May 13, 1965, pursuant to the provisions of this part; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the FCC pertaining to the reports after they have been filed, and all documents incorporated therein by reference, including contracts listed in such reports in accordance with the provisions of § 73.3615(a)(4)(i) and which according to the provisions of §§ 0.451–0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the licensee or permittee, after making the reference, so states.

(4) Such records as are required to be kept by § 73.1940 concerning broadcasts by candidates for public office.

(5) A copy of every annual employment report filed by the licensee or permittee for such station pursuant to the provisions of this part; and copies of all exhibits, letters and other documents filed as part thereof, all amendments thereto, and all correspondence between the permittee or licensee and the FCC pertaining to the reports after they have been filed and all documents incorporated therein by reference and which according to the provisions of §§ 0.451–0.461 of the rules are open for public inspection at the offices of the FCC.

(6) The Public and Broadcasting—A Procedure Manual (see FCC 74–942, 39 FR 32288, September 5, 1974).

(7) Letters received from members of the public as are required to be retained by § 73.1202.

(8) For TV stations, a copy of the Annual Programming Report (Form 303–A) containing programming information for a composite week selected by the FCC and the licensee's or permittee's program logs for that composite week.

(9) To be placed in the public inspection file every year, on the anniversary date on which the station's renewal application would be due for filing with the FCC, a listing of no more than ten significant problems and needs of the area served by the station during the preceding twelve months. In relation to each problem or need cited, licensees and permittees shall indicate typical and illustrative programs or program series, excluding ordinary news inserts of breaking events (the daily or ordinary news coverage of breaking newsworthy events), which were broadcast during the preceding twelve months in response to those problems and needs. Such a listing shall include the title of the program or program series, its source, type, brief description, time broadcast and duration. The third annual listing shall be placed in the station's public inspection file on the due date of the filing of the station's application for renewal of license. Additionally, upon the filing of the station's application for renewal of license, the three annual problems-programs listings shall be forwarded to the FCC as part of that application. The annual listings are not to exceed five pages, but may be supplemented at any time by additional material placed in the public inspection file and identified as a continuation of the information submitted to the FCC.

(10) Although not part of the regular file for public inspection, program logs for TV and radio stations willl be available for public inspection under the circumstances set forth in § 73.1850 and discussed in the Public and Broadcasting Procedural Manual; Revised Edition.

(11) Each licensee or permittee of a commercially operated radio or TV

station (except as provided in Note 2, below) shall place in the station's public inspection file appropriate documentation relating to its efforts to interview a representative cross-section of community leaders within its service area to ascertain community problems and needs. Such documentation shall be placed in the station's public inspection file within a reasonable time after the date of completion of each interview, but in no event later than the due date for filing the station's application for renewal of license and shall include:

(i) The name, address, organization, and position or title of the community leader interviewed;

(ii) The date, time and place of the interview;

(iii) The name of the principal, management-level or other employee of the station conducting the interview;

(iv) The problems and needs discussed during the interview or, when the interviewee requests that his/her statements be held in confidence, that request shall be noted; and

(v) For interviews conducted by non-principals or non-managers, the date of review of the interview record by a principal or management-level employee of the station.

Additionally, upon the filing of the application for renewal of license each licensee shall forward to the FCC as part of the application for renewal of license a checklist indicating the numbers of community leaders interviewed during the current license term representing the several elements found on the form, provided that, if a community lacks one of the enumerated institutions or elements, the licensee or permittee shall so indicate by providing a brief explanation on its checklist.

(12) Each licensee or permittee of a commercially operated radio and TV station (except as provide in Note 2, below) shall place in the station's public inspection file documentation relating to its efforts to consult with a roughly random sample of members of the general public within its city of license to ascertain community problems and needs. Such documentation shall consist of:

(i) Information relating to the total population of the station's city of license including the numbers and proportions of males and females; of minorities; of youth (17 and under); and of the elderly (65 and over);

(ii) A narrative statement of the sources consulted and the methods followed in conducting the general public survey, including the number of people surveyed and the results thereof. Such documentation shall be placed in the public inspection file within a reasonable time after completion of the survey but in no event later than the date the station's application for renewal of license is filed. Upon filing its application for renewal of license, each licensee and permittee must certify that the above-noted documentation has been placed in the station's public inspection file.

Note 1.—The engineering section of applications mentioned in paragraphs (a) (1) and (2) of this section, and material related to the engineering section, need not be kept in the file required to be maintained by this paragraph. If such engineering section contains service contour maps submitted with that section, copies of such maps, and information (State, county, city, street address, or other identifying information) showing main studio and transmitter location shall be kept in the file.

Note 2.—Paragraphs (a)(11) and (a)(12) of this section shall not apply to commercial radio and TV stations within cities of license which (1) have a population, according to the immediately preceding decennial U.S. Census, of 10,000 persons or less; and (2) are located outside all Standard Metropolitan Statistic Areas (SMSA's, as defined by the Federal Bureau of the Census).

(b) *Responsibility in case of assignment or transfer.* (1) In cases involving applications for consent to assignment of broadcast station construction permits or licenses, with respect to which public notice is required to be given under the provisions of § 73.3580 or § 73.3594, the file mentioned in paragraph (a) of this section shall be maintained by the assignor. If the assignment is consented to by the FCC and consummated, the assignee shall maintain the file commencing with the date on which notice of the consummation of the assignment is filed with the FCC. The file maintained by the assignee shall cover the period both before and after the time when the notice of consummation of assignment was filed. The assignee is responsible for obtaining copies of the necessary documents from the assignor or from the FCC files.

(2) In cases involving applications for consent to transfer of control of a permittee or licensee of a broadcast station, the file mentioned in paragraph (a) of this section shall be maintained by the permittee or licensee.

(c) *Station to which records pertain.* The file need contain only applications, ownership reports, and related material that concern the station for which the file is kept. Applicants, permittees, and licensees need not keep in the file copies of such applications, reports, and material which pertain to other stations with regard to which they may be applicants, permittees, or licensees, except to the extent that such information is reflected in the materials required to be kept under the provisions of this Section.

(d) *Location of Records.* The file shall be maintained at the main studio of the station, or any accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed, and shall be available for public inspection at any time during regular business hours.

(e) *Period of retention.* The records specified in paragraph (a)(4) of this section shall be retained for the periods specified in § 73.1940 (2 years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The letters specified in paragraph (a)(7) of this Section shall be retained for the period specified in § 73.1202 (3 years). The records specified in paragraph (a)(1), (2), (3), (5), (8), (9), (11) and (12) of this section shall be retained as follows:

(1) The applicant for a construction permit for a new station shall maintain such a file so long as the application is pending before the FCC or any proceeding involving that application is pending before the courts. (If the application is granted, paragraph (e)(2) of this section shall apply.)

(2) The permittee or licensee shall maintain such a file so long as an authorization to operate the station is outstanding, and shall permit public inspection of the material as long as it is retained by the licensee even though the request for inspection is made after the conclusion of the required retention period specified in this subparagraph. However, material which is voluntarily retained after the required retention time may be kept in a form and place convenient to the licensee, and shall be made available to the inquiring party, in good faith after written request, at a time and place convenient to both the party and the licensee. Applications and related material placed in the file shall be retained for a period of 7 years from the date the application is tendered for filing with the FCC with two exceptions: First, engineering material pertaining to a former mode of operation need not be retained longer than 3 years after a station commences operation under a new or modified mode; and second, all of the material shall be retained for whatever longer period is necessary to comply with the following requirements:

(i) Material shall be retained until final FCC action on the second renewal

application following the application or other material in question; and

(ii) Material having a substantial bearing on a matter which is the subject of a claim against the licensee, or relating to an FCC investigation or a complaint to the FCC of which the licensee has been advised, shall be retained until the licensee is notified in writing that the material may be discarded, or, if the matter is a private one, the claim has been satisfied or is barred by statute of limitations. Where an application or related material incorporates by reference material in earlier applications and material concerning programming and related matters (Section IV and related material), the material so referred to shall be retained as long as the application referring to it. If a written agreement is not incorporated in an application tendered for filing with the FCC, the starting date of the retention period for that agreement is the date the agreement is executed.

(f) Copies of any material in the public file of any TV or radio station shall be available for machine reproduction upon request made in person: *Provided,* The requesting party shall pay the reasonable cost of reproduction. Requests for machine copies shall be fulfilled at a location specified by the licensee, within a reasonable period of time which in no event shall be longer than seven days unless reproduction facilities are unavailable in the licensee's city of license. The licensee is not required to honor requests made by mail but may do so if it chooses.

83. New § 73.3527 is added to Subpart H, Part 73, to read as follows:

§ 73.3527 Local public inspection file of noncommercial educational stations.

(a) *Records to be maintained.* Every applicant for a construction permit for a new station in the noncommercial educational broadcast services shall maintain for public inspection a file containing the material in paragraph (a) (1) and (7) of this section. Every permittee or licensee of a station in the noncommercial educational broadcast services shall maintain for public inspection a file containing the material described in paragraph (a) (1) through (7) of this section. The material to be contained in this file is as follows:

(1) A copy of every application tendered for filing with respect to which local public notice is required to be given under the provisions of § 73.3580 or § 73.3594; and all exhibits, letters and other documents tendered for filing as part thereof, all amendments thereto, copies of all documents incorporated therein by reference, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto, which according to the provisions of §§ 0.451–0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the applicant, after making the reference, so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition.

Note.—Applications tendered for filing on or before May 13, 1965, which were subsequently designated for hearing after May 13, 1965, with local notice being given pursuant to the provisions of § 73.3594, and material related to such applications, need not be placed in the file required to be kept by this section. Materials tendered for filing after May 13, 1965, which contain major amendments to applications tendered for filing on or before May 13, 1965, with local notice of the amending application being given pursuant to the provisions of § 73.3580 need not be placed in the file required to be kept by this section.

(2) A copy of every application tendered for filing by the licensee or permittee for such station after May 13, 1965, pursuant to the provisions of this part, which is not included in subparagraph (1) of this paragraph and which involves changes in program service, which requests an extension of time in which to complete construction of a new station, or which requests consent to involuntary assignment or transfer, or to voluntary assignment or transfer not resulting in a substantial change in ownership or control and which may be applied for on FCC Form 316; and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the FCC and the applicant pertaining to the application after it has been tendered for filing, and copies of all documents incorporated therein by reference, which according to the provisions of §§ 0.451–0.461 of this chapter are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and there has been no change in the document since the date of filing and the licensee, after making the reference so states. If petitions to deny are filed against the application, and have been duly served on the applicant, a statement that such a petition has been filed shall appear in the local file together with the name and address of the party filing the petition.

(3) A copy of contracts listed in ownership reports filed in accordance with the provisions of § 73.3615(e) and which according to the provisions of §§ 0.451–0.461 of the rules are open for public inspection at the offices of the FCC. Information incorporated by reference which is already in the local file need not be duplicated if the entry making the reference sufficiently identifies the information so that it may be found in the file, and if there has been no change in the document since the date of filing and the licensee or permittee, after making the reference, so states.

(4) Such records as are required to be kept by § 73.1940, "Broadcasts by candidates for public office."

(5) A copy of every annual employment report filed by the licensee or permittee for such station pursuant to the provisions of this Part; and copies of all exhibits, letters and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the FCC pertaining to the reports after they have been filed and all documents incorporated therein by reference and which, according to the provisions of §§ 0.451–0.461 of the rules, are open for public inspection at the office of the FCC.

(6) The Public and Broadcasting: Revised Edition (see FCC 74–942, 39 FR 32288, September 5, 1974).

(7) Problems-programs lists, as follows:

(i) Every year, on the anniversary date on which the station's renewal application would be due for filing with the FCC, each non-exempt renewal applicant shall place in its public inspection file a listing of no more than ten significant problems and needs of the area served by the station during the preceding twelve months. In relation to each problem or need cited, licensees and permittees shall indicate typical and illustrative programs or program series, excluding ordinary news inserts of breaking events, which were broadcast during the preceding twelve months in response to those problems and needs. Such a listing shall include the title of

the program or program series, its source, type, brief description, time broadcast and duration. Renewal applicants shall place the third annual listing in the station's public inspection file on the due date of the filing of the station's application for renewal of license. Upon the filing of the station's application for renewal of license, the three annual problems-programs listings shall be forwarded to the FCC as part of the application for renewal of license. The annual listings are not to exceed five pages each, but may be supplemented at any time by additional material placed in the public inspection file and identified as a continuation of the information submitted to the FCC.

(ii) A non-exempt applicant for other than renewal of license shall submit to the FCC as part of its application, and place in its public inspection file, a listing of no more than ten significant problems and needs of the area proposed to be served during the initial license term to be covered by the application. In relation to each problem or need cited, such applicants shall indicate typical and illustrative programs or program series, excluding ordinary news inserts or breaking events, which are proposed for broadcast during the initial license term, in response to those problems and needs. This listing shall include the title of the proposed program or program series (if available), its source, type, a brief description, proposed time of broadcast and duration.

Note 1.—The engineering section of the applications mentioned in subparagraphs (1) and (2) of this paragraph, and material related to the engineering section, need not be kept in the file required to be maintained by this paragraph. If such engineering section contains service contour maps submitted with that section, copies of such maps and information (State, county, city, street address, or other identifying information) showing main studio and transmitter location shall be kept in the file.

Note 2.—For purposes of paragraphs (a)(7) and (b) and (c) of this section, exempt applicants, permittees or licensees include those whose existing or prospective facilities are Class D FM stations ("10-watt") under § 73.504(b)(1) or whose programming is wholly "instructional" within the meaning of the instruction in Section IV of Forms 340 and 342 and the Report and Order in *Ascertainment of Community Problems by Noncommercial Broadcast Applicants*, 40 FR 12424, March 25, 1976, at para. 49.

(b) *Records to be maintained by non-exempt applicants, permittees, and licensees in the noncommercial educational radio service.* In addition to the requirements set out in paragraph (a) of this section, each radio applicant, permittee and licensee in the noncommercial educational radio service shall place in its public inspection file at such time as its renewal application would ordinarily be filed with the FCC—or in the case of applicants other than for renewal of license, at the time the application is filed—a narrative statement detailing the sources consulted and the methods followed in conducting its ascertainment of community needs and interests and summarizing principal needs and interests discovered through that survey. These items shall also be filed with the Commission as a part of the licensee's application.

(c) *Records to be maintained by applicants, permittees, and licensees in the noncommercial educational TV service.* In addition to the requirements set out in paragraph (a) of this section, each applicant, permittee and licensee in the noncommercial educational TV service that is required to maintain a public file under paragraph (a) of this section shall maintain the following in its public inspection file:

(1) Appropriate documentation relating to its efforts to interview a representative cross-section of community leaders in its service area to ascertain its problems and needs. Such documentation shall be placed in the station's public inspection file within a reasonable time after the date of completion of each interview, but in no event later than the due date for filing the station's application for renewal of license, and shall include:

(i) The name, address, organization, and position or title of the community leader interviewed;

(ii) The date, time and place of the interview;

(iii) The name of the principal, management-level or other employee or volunteer conducting the interview;

(iv) The problems and needs discussed during the interview or when the interviewee requests that his/her statements be held in confidence, that request shall be noted; and

(v) for interviews conducted by non-principals or non-managers the date of review of the interview record by a principal or management-level employee.

Additionally, upon the filing of the application for renewal of license each licensee shall forward to the FCC as part of the application for renewal of license and each licensee and permittee shall place in the station's public inspection file, a checklist indicating the number of community leaders interviewed during the current license term representing elements found on the sample Community Leader Checklist (see *Ascertainment of Community Problems by Broadcast Renewal Applicants*, 41 FR 1372, 1384 (1976)); *provided that*, if a community lacks one of the enumerated institutions or elements, the licensee and permittee should so indicate by providing a brief explanation on its checklist. The same rules apply to applicants for other than renewal of license except that the checklist for an ascertainment of community leaders shall reflect information obtained within six months prior to filing and shall be placed in the public file no later than the time the application is filed.

(2) Documentation relating to its efforts to consult with members of the public to ascertain community problems and needs. Such documentation shall consist of:

(i) Information relating to the total population of the station's community of license, including the numbers and proportions of males and females; of minorities; of youth (17 and under); and the numbers and proportions of the elderly (65 and over); and

(ii) Information regarding the public survey. An applicant for other than renewal of license shall conduct a random survey of the general public in its community of license within six months prior to filing its application, and shall file the information requested in subparagraph (A) below. Applicants for renewal of license may, at their option, conduct a random general public survey, periodic call-in programs, periodic public meetings or a combination of the latter two methods. Licensees should file information describing the methods used as set out in subparagraphs (A), (B) and (C), as a part of their renewal applications:

(A) If a random general public survey is conducted, a narrative statement, not to exceed five pages in length, of the sources consulted and the methods followed in conducting the general public survey, including the number of people surveyed and the results thereof;

(B) If a periodic call-in program is used, a narrative statement for each such program describing the numbers of persons reached, the duration of the program(s), the manner in which notice of the airing of the program was given to the public, the issues discussed and other relevant descriptive material; and

(C) If periodic public meetings are used, a narrative statement for each such meeting describing the time and place of the meeting, the approximate number of persons present and speaking, the duration of the meeting,

the manner in which notice of the meeting was given to the public, the issues discussed, the names and titles of station representatives present and other relevant descriptive material.

(iii) The information requested in subparagraphs (A), (B) and (C) above shall be placed in the public inspection file within a reasonable time after completion of the public ascertainment—or severable portion thereof, such as each call-in program or public meeting—but in no event later than the due date for filing the application, and shall be filed with the FCC as a part of the renewal application. The demographic information requested in subdivision (i) of this subparagraph shall be deposited in the public file no later than the time at which the information called for by subdivision (ii) of this subparagraph, or some portions thereof, is deposited.

(3) Although not part of the regular file for public inspection, program logs for TV and radio stations will be available for public inspection under the circumstances set forth in § 73.1850 and discussed in the Public and Broadcasting; Revised Edition.

(d) *Responsibility in case of assignment or transfer.* (1) In cases involving applications for consent to assignment of broadcast station construction permits or licenses, with respect to which public notice is required to be given under the provisions of § 73.3580 or § 73.3594, the file mentioned in paragraph (a) of this section shall be maintained by the assignor. If the assignment is consented to by the FCC, and consummated, the assignee shall maintain the file commencing with the date on which notice of the consummation of the assignment is filed with the FCC. The file maintained by the assignee shall cover the period both before and after the time when the notice of consummation of assignment was filed. The assignee is responsible for obtaining copies of the necessary documents from the assignor or from the FCC files.

(2) In cases involving applications for consent to transfer of control of a permittee or licensee of a broadcast station, the file mentioned in paragraph (a) of this section shall be maintained by the permittee or licensee.

(e) *Station to which records pertain.* The file need contain only applications, ownership reports, and related material that concern the station for which the file is kept. Applicants, permittees and licensees need not keep in the file copies of such applications, reports and material which pertain to other stations with regard to which they may be applicants, permittees, or licensees, except to the extent that such information is reflected in the materials required to be kept under the provisions of this Section.

(f) *Location of records.* The file shall be maintained at the main studio of the station, or at any accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed, and shall be available for public inspection at any time during regular business hours.

(g) *Period of retention.* The records specified in paragraph (a)(4) of this section shall be retained for the periods specified in § 73.1940. The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The records specified in paragraphs (a)(1), (2), (3), (5), (7); (b); and (c) of this section shall be retained as follows:

(1) The applicant for a construction permit for a new station shall maintain such a file so long as the proceeding in which that application was filed is pending before the FCC or any proceeding involving that application is pending before the courts. (If the application is granted, paragraph (g)(2) of this section shall apply.)

(2) The permittee or licensee shall maintain a file of such records so long as an authorization to operate the station is outstanding, and shall permit public inspection of the material as long as it is retained by the licensee even though the request for inspection is made after the conclusion of the required retention period specified in this subparagraph. However, material which is voluntarily retained after the required retention time may be kept in a form and place convenient to the licensee, and shall be made available to the inquiring party, in good faith after written request, at a time and place convenient to both the party and the licensee. Applications and related material placed in the file shall be retained for a period of 7 years from the date the application is tendered for filing with the FCC, with two exceptions: First, engineering material pertaining to a former mode of operation need not be retained longer than 3 years after a station commences operation under a new or modified mode; and second, all of the material shall be retained for whatever longer period is necessary to comply with the following requirements:

(i) Material shall be retained until final FCC action on the second renewal application following the application or other material in question; and

(ii) Material having a substantial bearing on a matter which is the subject of a claim against the licensee, or relating to an FCC investigation or a complaint to the FCC of which the licensee has been advised, shall be retained until the licensee is notified in writing that the material may be discarded, or, if the matter is a private one, the claim has been satisfied or is barred by statutes of limitations. Where an application or related material incorporates by reference material in an earlier application and material concerning programming and related matters (Section IV and related material), the material so referred to shall be retained as long as the application referring to it.

(h) Copies of any material in the public file of any TV or radio station shall be made available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies shall be fulfilled at a location specified by the licensee, within a reasonable period of time which in no event shall be longer than seven days unless reproduction facilities are unavailable in the licensee's city of license. The licensee is not required to honor requests made by mail but may do so if it chooses.

84. New § 73.3533 is added to Part 73, Subpart H, to read as follows:

§ 73.3533 Application for construction permit.

(a) Applications for new facilities or modification of existing facilities shall be made on the following forms:

(1) FCC Form 301, "Application for Authority to Construct or Make Changes in an Existing Commercial Broadcast Station."

(2) FCC Form 309, "Application for Authority to Construct or Make Changes in an Existing International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station."

(3) FCC Form 313, "Application for Authorization in the Auxiliary Broadcast Services."

(4) FCC Form 318, "Request for Subsidiary Communications Authorization." For use by existing FM broadcast licensees applying for permit to establish or modify an SCA service.

(5) FCC Form 330–P, "Application for Authority to Construct or Make Changes in Instructional TV Fixed and/or Response Station(s) and Low Power Relay Station(s)."

(6) FCC Form 340, "Application for Authority to Construct or Make Changes

in a Noncommercial Educational Broadcast Station."

(7) FCC Form 346, "Application for Authority to Construct or Make Changes in a TV or FM Broadcast Translator Station."

(8) FCC Form 349–P, "Application for Authority to Construct or Make Changes in an FM Broadcast Booster Station."

85. New § 73.3534 is added to Part 73, Subpart H, to read as follows:

§ 73.3534 Application for extension of construction permit or for construction permit to replace expired construction permit.

(a) Application for extension of time within which to construct a station shall be filed on FCC Form 701, "Application for Extension of Construction Permit or to Replace Expired Construction Permit." The application shall be filed at least 30 days prior to the expiration date of the construction permit if the facts supporting such application for extension are known to the applicant in time to permit such filing. In other cases, an application will be accepted upon a showing satisfactory to the FCC of sufficient reasons for filing within less than 30 days prior to the expiration date. Such applications will be granted upon a specific and detailed showing that the failure to complete was due to causes not under the control of the grantee, or upon a specific and detailed showing of other matters sufficient to justify the extension. If approved, such extensions will be limited to periods of not more than 6 months.

(b) Application for a construction permit to replace an expired construction permit shall be filed on FCC Form 701. Such applications must be filed within 30 days of the expiration date of the authorization sought to be replaced. If approved, such authorization shall specify a period of not more than 6 months within which construction shall be completed and application for license filed.

86. New § 73.3536 is added to Part 73, Subpart H, to read as follows:

§ 73.3536 Application for license to cover construction permit.

(a) The application for station license shall be filed by the permittee prior to program tests.

(b) The following application forms shall be used:

(1) FCC Form 302, "Application for a New Commercial Broadcast Station License."

(2) FCC Form 310, "Application for an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License."

(3) FCC Form 313, "Application for Authorization in the Auxiliary Broadcast Services."

(4) FCC Form 318, "Request for Subsidiary Communications Authorization."

(5) FCC Form 330–L "Application for Instructional Television Fixed Station License."

(6) FCC Form 341, "Application for a New Noncommercial Educational Broadcast Station License."

(7) FCC Form 347, "Application for a TV or FM Broadcast Translator Station License."

(8) FCC Form 349–L, "Application for FM Broadcast Booster Station License."

87. New § 73.3537 is added to Part 73, Subpart H, to read as follows:

§ 73.3537 Application for license to use former main antenna as an auxiliary.

A licensee may apply on FCC Form 302 (FCC Form 341 for noncommercial educational licensees) for authority to use a formerly licensed main antenna system as an auxiliary antenna.

88. New § 73.3538 is added to Part 73, Subpart H, to read as follows:

§ 73.3538 Application to make changes in an existing station.

Where prior authority from the FCC is required to make changes in an existing station the following procedures shall be used to request that authority:

(a) An application for a construction permit using the forms specified in § 73.3533 must be filed for authority to make the following changes:

(1) Any change involving frequency, power or location of the station.

(2) A change in the hours of operation of an AM station, where the hours of operation are specified on the station license.

(3) The installation of a transmitter which has not been type approved by the FCC for use by licensed broadcast stations.

(4) Any change in the location, height, or directional radiating characteristics of the antenna or antenna system.

(5) To move the main studio location of an AM station to a location outside the principal community, or to move the studio from one location outside the principal community to another such location (other than to the authorized transmitter site). See § 73.31.

(6) To move the main studio of an FM station to a location outside the principal community or to move the studio from one location outside the principal community to another such location (other than to the studio of a commonly-owned AM station licensed to the same community). See § 73.210.

(7) To move the main studio of a TV station to a location outside the principal community, or to move the studio from one location outside the principal community to another such location. See § 73.613.

(b) An informal application filed in accordance with § 73.3511 is to be used to obtain authority to make the following changes in the station authorization:

(1) To specify a new AM station directional antenna field monitoring point as a substitute for one that is no longer suitable or available, such as due to construction. The request is to include sufficient measurement data taken at the new monitoring point to establish its reliability in comparison with data taken at the old monitoring point on the same radial, the routing directions to the new point, a location photograph, and such other information as the FCC may request.

(2) To modify or discontinue the obstruction marking or lighting of the antenna supporting structure where that specified on the station authorization either differs from that specified in FCC Rules, Part 17, or is not appropriate for other reasons.

89. New § 73.3539 is added to Part 73, Subpart H, to read as follows:

§ 73.3539 Application for renewal of license.

(a) Unless otherwise directed by the FCC, an application for renewal of license shall be filed not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed, except that applications for renewal of license of an experimental or developmental broadcast station shall be filed not later than the first day of the second full calendar month prior to the expiration date of the license sought to be renewed. If any deadline prescribed in this paragraph falls on a nonbusiness day, the cutoff shall be the close of business of the first full business day thereafter.

(b) No application for renewal of license of any broadcast station will be considered unless there is on file with the FCC the information, if any, currently required by §§ 73.3611–73.3615, inclusive, for the particular class of station. The renewal application shall include a reference by date and file number of such information on file.

(c) Whenever the FCC regards an application for a renewal of license as essential to the proper conduct of a hearing or investigation, and specifically directs that it be filed by a date certain,

such application shall be filed within the time thus specified. If the licensee fails to file such application within the prescribed time, the hearing or investigation shall proceed as if such renewal application had been received.

(d) The following application forms shall be used:

(1) FCC Form 303, "Application for Renewal of License for Commercial TV Broadcast Station."

(2) FCC Form 303–R, "Application for Renewal of License for Commercial AM or FM Radio Broadcast Station."

(3) FCC Form 311, "Application for Renewal of an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License."

(4) FCC Form 313, "Application for Authorization in the Auxiliary Broadcast Services." To be used for applications for renewal of licenses of auxiliary broadcast stations only when there has been a change in the information contained in the initial application for license.

(5) FCC Form 313–R, "Application for Renewal of Auxiliary Broadcast License (Short Form)." To be used for applications for renewal of license of auxiliary broadcast stations where there has been no change in the information contained in the initial application for license.

(6) FCC Form 330–R, "Application for Renewal of Instructional TV Fixed Station and/or Response Station(s) and Low Power Relay Station(s) License."

(7) FCC Form 342, "Application for Renewal of a Noncommercial Educational Broadcast Station License."

(8) FCC Form 348, "Application for Renewal of TV or FM Broadcast Translator Station License."

(9) FCC Form 349–R, "Application for Renewal of FM Broadcast Booster Station License."

90. New § 73.3540 is added to Part 73, Subpart H, to read as follows:

§ 73.3540 Application for voluntary assignment or transfer of control.

(a) Prior consent must be obtained for a voluntary assignment or transfer of control.

(b) Application should be filed with the FCC at least 45 days prior to the contemplated effective date of assignment or transfer of control.

(c) Application for consent to the assignment of construction permit or license must be filed on FCC Form 314 "Assignment of license," FCC Form 316 "Short form" (see paragraph (e) of this section) or FCC Form 345 "Assignment of Translator Stations."

(1) FCC Form 345 is to be used only for the assignment of construction permits or licenses of translator stations and associated auxiliaries, such as translator microwave relay stations, or UHF translator signal boosters where no other type of broadcast station is involved.

(d) Application for consent to the transfer of control of a corporation holding a construction permit or license must be filed on FCC Form 315 "Transfer of Control" or FCC Form 316 "Short form" (see paragraph (e) of this section).

(1) FCC Form 315 is to be used for transfer of control of translator stations such as described in paragraph (c)(1) of this section.

(e) The following assignment or transfer applications may be filed on FCC "Short form" 316:

(1) Assignment from an individual or individuals (including partnerships) to a corporation owned and controlled by such individuals or partnerships without any substantial change in their relative interests;

(2) Assignment from a corporation to its individual stockholders without effecting any substantial change in the disposition of their interests;

(3) Assignment or transfer by which certain stockholders retire and the interest transferred is not a controlling one;

(4) Corporate reorganization which involves no substantial change in the beneficial ownership of the corporation;

(5) Assignment or transfer from a corporation to a wholly owned subsidiary thereof or vice versa, or where there is an assignment from a corporation to a corporation owned or controlled by the assignor stockholders without substantial change in their interests; or

(6) Assignment of less than a controlling interest in a partnership.

91. New § 73.3541 is added to Part 73, Subpart H, to read as follows:

§ 73.3541 Application for involuntary assignment of license or transfer of control.

(a) The FCC shall be notified in writing promptly of the death or legal disability of an individual permittee or licensee, a member of a partnership, or a person directly or indirectly in control of a corporation which is a permittee or licensee.

(b) Within 30 days after the occurrence of such death or legal disability, an application on FCC Form 316 shall be filed requesting consent to involuntary assignment of such permit or license or for involuntary transfer of control of such corporation to a person or entity legally qualified to succeed to the foregoing interests under the laws of the place having jurisdiction over the estate involved.

92. New § 73.3542 is added to Part 73, Subpart H, to read as follows:

§ 73.3542 Application for temporary authorization.

(a) The circumstances in which temporary authority will be granted are set out in the pertinent subparts of Parts 2, 73 and 74.

(b) Temporary authority may be granted to a licensee or permittee of a broadcast station to operate such station for a period not to exceed 90 days upon request therefor. Any such request should be filed with the FCC at least 10 days prior to the date of the proposed operation and should be accompanied by a statement giving full particulars as to the purpose for which the request is made. Any temporary authority issued under this section may be cancelled by the FCC without further notice or hearing.

(c) No request by an AM station for temporary authority to extend its hours of operation beyond those authorized by its regular authorization will be accepted or granted by the FCC.

(d) An informal application is to be used, signed in accordance with the provisions of § 73.3513.

(e) Request for temporary operation necessitated by equipment damage or failure may be made without regard to the procedural requirements of this section.

93. New § 73.3543 is added to Part 73, Subpart H, to read as follows:

§ 73.3543 Application for renewal or modification of special service authorization.

(a) No new special service authorization will be issued. However, consideration will be given to renewal or modification of a special service authorization which was outstanding on February 3, 1958, providing a satisfactory showing has been made in regard to the following, among others:

(1) That the requested operation may not be granted on a regular basis under the existing rules governing the operation of AM stations;

(2) That experimental operation is not involved as provided for by § 73.1510 (Experimental authorizations); and

(3) That public interest, convenience and necessity will be served by the authorization requested.

94. New § 73.3544 is added to Part 73, Subpart H, to read as follows:

§ 73.3544 Application to obtain a modified station license.

Where prior authority from the FCC is not required to make certain changes in the station authorization or facilities, but a modified station license must be obtained, the following procedures shall be used to obtain modification of the station license:

(a) An application for a station license using the forms specified in § 73.3536 shall be used to cover the following changes:

(1) A change in the type of FM or TV transmitting antenna where prior authority from the FCC is not required to make such a change. See §§ 73.257, 73.557 or 73.639.

(2) A change in the output power of FM or TV aural or visual transmitters to accommodate a change in the antenna type or transmission line.

(b) An informal application filed according to the procedures specified in § 73.3511(b) shall be used to cover the following changes:

(1) A change in the name of the licensee where no change in ownership or control is involved.

(2) A correction of the routing instructions and description of an AM station directional antenna system field monitoring point, when the point itself is not changed.

(3) A change in the type of AM station directional antenna monitor. See § 73.69.

(4) A change in the location of the station main studio when prior authority to move the main studio location is not required.

(5) The location of a remote control point of an AM or FM station when prior authority to operate by remote control is not required.

95. New § 73.3545 is added to Part 73, Subpart H, to read as follows:

§ 73.3545 Application for permit to deliver programs to foreign stations.

Application under Section 325(b) of the Communications Act for authority to locate, use, or maintain a broadcast studio in connection with a foreign station consistently received in the United States, should be made on FCC Form 308, "Application for Permit to Deliver Programs to Foreign Broadcast Stations." An informal application may be used by applicants holding an AM, FM or TV broadcast station license or construction permit. Informal applications must, however, contain a description of the nature and character of the programming proposed, together with other information requested on Page 4 of Form 308.

96. New § 73.3547 is added to Part 73, Subpart H, to read as follows:

§ 73.3547 Requests for temporary permission to use lesser grade operators or pro-tem, non-full-time chief operators.

(a) For stations which are required to have first-class radiotelephone licensed operators on duty in charge of the transmitting system during all periods of operation and, due to circumstances beyond the licensee's control, such operators are unavailable to maintain the regular schedule of operation, a request for temporary permission to employ lesser grade operators may be submitted to the Engineer in Charge of the radio district in which the station is located.

(b) For stations which are required to have a designated chief operator and that operator becomes incapacitated or temporarily unavailable and a designated assistant chief operator is not employed on a full-time basis, a request for permission to appoint a first class operator available part time and available on call as the pro-tem chief operator, may be submitted to the Engineer in Charge of the radio district in which the station is located.

(c) Temporary permission to operate either with lesser grade operators or with a part-time pro-tem chief operator may be granted for a period not to exceed 60 days upon a showing of need. The Engineer in Charge may terminate the permission in the absence of adequate efforts to obtain qualified operators or for other good reasons in the judgment of the Engineer in Charge.

(d) Requests for temporary permission to operate with either lesser grade operators or with a part-time pro-tem chief operator are to be made in letter form, signed by the licensee, and include the following:

(1) The name of the licensee and call letters of the station.

(2) The number of persons holding first-class radiotelephone operator licenses employed on a full-time and part-time basis.

(3) If first class operators are required to be on duty in charge of the transmission system, a statement that additional persons holding such licenses to maintain the normal operating schedule could not be obtained, and that at least one first-class operator is available on call in event of an equipment failure, and who will make any necessary repairs and adjustments.

(4) If the station is required to employ a first-class operator on a full-time basis as a designated chief operator under the provisions of § 73.93(f), a showing that at least one first-class operator will be employed on a part-time basis available on call in event of an equipment failure, and who will assume the responsibilities of the chief operator on a pro-tem basis.

(5) Any request for an extension of the original permission, when the employment of a replacement operator is required must include a showing of the continuing efforts made to obtain qualified employees, including a listing of the names and addresses of sources of contact and dates of contacts of all known sources of broadcast operators. If a replacement operator is rejected for employment, a statement giving the reason for rejection must be included.

97. New § 73.3548 is added to Part 73, Subpart H, to read as follows:

§ 73.3548 Applications to operate by remote control.

(a) An applicant for a new AM, FM or TV station or an applicant for a construction permit to make changes in an existing station may include a request for authority to operate by remote control on FCC Form 301 (FCC Form 340 for noncommercial educational stations).

(b) The licensee of an existing AM station using a non-directional antenna or an FM station may commence operation by remote control without prior authorization from the FCC. Written notice giving the address and description of the remote control point(s) being used must be sent to the FCC in Washington, D.C., within 3 days after commencing remote control operation. When the remote control point is at a location other than that of either the authorized studio or transmitter facilities, the licensee must also send a notice to the Engineer in Charge of the radio district in which the station is located. This additional notice is to include the full address, location and telephone number of the remote control point.

(c) The licensee of an existing AM station using a directional antenna system or a TV station must request authority to operate by remote control or to make changes in an existing remote control location on FCC Form 301-A, "Application for Authority to Operate a Broadcast Station by Remote Control or Make Changes in a Remote Control Authorization." See § 73.66 (AM) or § 73.677 (TV), "Remote Control Authorizations."

98. New § 73.3549 is added to Part 73, Subpart H, to read as follows:

§ 73.3549 Requests for extension of authority to operate without required monitors, indicating instruments, and EBS attention signal devices.

Requests for extension of authority to operate without required monitors,

transmission system indicating instruments, or devices for off-the-air monitoring and generating of the EBS Attention Signal should be made to the Engineer in Charge of the radio district in which the station is operating. Such requests must contain information as to when and what steps were taken to repair or replace the defective equipment and a brief description of the alternative procedures being used while the defective equipment is out of service.

99. New § 73.3550 is added to Part 73, Subpart H, to read as follows:

§ 73.3550 Requests for new or modified call sign assignments.

(a) Requests for new or modified call sign assignments for broadcast stations shall be made by letter to the Secretary, FCC, Washington, D.C. 20554. An original and one copy of the letter shall be submitted and shall be accompanied by the filing fee, if required, specified in § 1.1111. Incomplete or otherwise defective filings will be returned by the FCC, and any filing fee submitted in connection therewith will be forfeited 45 days from the date the application is returned should the applicant fail to submit an acceptable call sign application for the same station within that period.

(b) No request for a new call sign assignment will be accepted from an applicant for a new station until the FCC has granted a construction permit.

(c) An applicant for transfer or assignment of an outstanding construction permit or license may, in accordance with this Section, request a new call sign assignment at the time the application for transfer or assignment is filed, or at any time thereafter. In the absence of written consent of the proposed transferor or assignor, no change in call sign assignment will be made effective until such application is granted by the FCC and the transaction consummated.

(d) Where an application is granted by the FCC for transfer or assignment of the construction permit or license of a station whose existing call sign conforms to that of a commonly owned station not part of the transaction, the assignee shall, within 30 days after consummation, request a different call sign in accordance with the provisions of this section. Should a suitable application not be received within that period of time, the FCC will, on its own motion, select an appropriate call sign and effect the change in call sign assignment.

(e) Each request submitted under the provisions of paragraphs (a), (b), (c) and (d) of this section shall include the following:

(1) A statement that a copy of the request has been served upon all AM, FM and TV broadcast stations licensed to operate, or whose construction has been authorized, in communities wholly or partially within a 35-mile radius of the main post office of the applicant's community of license, and a list of the call signs and location of all stations upon which copies of the request have been served.

(2) As many as five call sign choices, listed in descending order of preference, may be included in a single request.

(f) No request for call signs will be acted upon by the FCC earlier than 30 days following issuance of public notice of the receipt of such request. Permittees or licensees seeking new or modified call signs are cautioned to take no action in reliance on securing the desired call sign until notified by the FCC that the request has been granted.

(g) Objections to the assignment of the requested call signs may be filed within the 30-day period following issuance of public notice of the receipt of such request. Copies of objections shall be served on the party making the request. Objections filed after the 30-day period will be considered only if, in the judgment of the FCC, good cause has been shown for failure to file within the time specified. A reply may be filed within 10 days of the filing of the objection, a copy of which shall be served on the objector. No further pleadings will be entertained, unless specifically authorized by the FCC.

(h) Call signs beginning with the letter "K" will not be assigned to stations located east of the Mississippi River, nor will call signs beginning with the letter "W" be assigned to stations located west of the Mississippi River, except where necessary to conform the call sign assignments of stations which otherwise qualify for common call signs.

(i) Only four-letter call signs (plus FM or TV suffixes, if used) will be assigned. However, subject to the other provisions of this section, a new or acquired station may be conformed to a commonly owned station holding a three-letter call sign assignment (plus FM or TV suffixes, if used).

(j) Subject to the foregoing limitations and provided the call sign is available for assignment, licensees and permittees are eligible to request call signs of their choice if the combination is in good taste and is sufficiently dissimilar phonetically and rhythmically from existing call signs of stations in the same service area so that there will be no significant likelihood of public confusion.

(k) Call signs are normally assigned on a "first-come-first-served" basis. Receipt by the FCC of a request for an available call sign blocks the acceptance of competing requests until the first received request is processed to completion. In the case of call signs being relinquished or deleted, the FCC will announce the availability thereof by public notice. If competing requests are filed within 15 days, the assignment (if otherwise grantable) will be made to the station having the longest continuous record of broadcasting operation under substantially unchanged ownership and control. However, involuntary and *pro forma* assignments and transfers will not be taken into account in determining priority.

(l) Stations in different broadcast services which are under common control and assigned to the same or adjoining communities may request that their call signs be conformed by the assignment of the same basic call sign. For the purposes of this paragraph, 50% or greater common ownership shall constitute a *prima facie* showing of common control.

(m) The procedural provisions of this section shall not apply to International broadcast stations, to stations in the experimental, auxiliary and special broadcast services, nor to FM or TV stations seeking to modify an existing call sign only to the extent of adding or deleting an "–FM" or "–TV" suffix. The latter additions and deletions may be requested accompanied by the necessary filing fee, if applicable.

(n) Failure by the permittee of a new station to request the assignment of a specific call sign and to complete the action required by this Section will result in the assignment of identification by the FCC on its own motion.

(o) In the absence of an objection, or pending transfer or assignment of a license or construction permit, a change in call sign assignment will be made effective on the date specified in the related public notice. Postponement of the effective date will be granted only in response to a timely request and for only the most compelling reasons.

(p) Four-letter combinations commencing with "W" or "K" which are assigned as call signs to ships or to other radio services are not available for assignment to broadcast stations, with or without the suffix "-FM" or "-TV".

(q) A call sign previously assigned to a station in the broadcast services will not be reassigned to another broadcast station in the same community within 180 days from its relinquishment, except

to the same licensee or permittee or to its successor-in-interest.

(r) Users of nonlicensed, low-power devices operating under Part 15 of the FCC rules may use whatever identification is currently desired, so long as propriety is observed and no confusion results with a station for which the FCC issues a license.

(s) A call sign whose suffix forms the intitials in their usual sequence of the President of the United States, of a living former President, or of the United States of America or any department or agency thereof, is unavailable for assignment to a station in the broadcast services in the absence of suitable clearance.

(t) A call sign may not be reserved. Where a licensee or permittee declines to indicate a specific desired effective date for the requested change of call sign assignment, the FCC will effect the change in assignment on a date at least 21 days after approval thereof.

100. A new undesignated headnote, APPLICATION PROCESSING, is added to Part 73, Subpart H, immediately preceding § 73.3561, Staff consideration of applications receiving Commission action.

Application Processing

101. New § 73.3561 is added to Part 73, Subpart H, to read as follows:

§ 73.3561 Staff consideration of applications requiring Commission action.

Upon acceptance of an application, the complete file is reviewed by the staff and, except where the application is acted upon by the staff pursuant to delegation of authority, a report containing the recommendations of the staff and any other documents required is prepared and placed on the Commission's agenda.

102. New § 73.3562 is added to Part 73, Subpart H, to read as follows:

§ 73.3562 Staff consideration of applications not requiring action by the Commission.

Those applications which do not require action by the Commission but which, pursuant to the delegations of authority set forth in Subpart B of Part 0, may be acted upon by the Chief, Broadcast Bureau, are forwarded to the Broadcast Bureau for necessary action. If the application is granted, the License Division issues the formal authorization. In any case where it is recommended that the application be set for hearing, where a novel question of policy is presented, or where the Chief, Broadcast Bureau desires instructions from the Commission, the matter is placed on the Commission agenda.

103. New § 73.3564 is added to Part 73, Subpart H, to read as follows:

§ 73.3564 Acceptance of applications.

(a) Applications tendered for filing are dated upon receipt and then forwarded to the Broadcast Bureau, where an administrative examination is made to ascertain whether the applications are complete. Applications found to be complete or substantially complete are accepted for filing and are given a file number. In case of minor defects as to completeness, the applicant will be required to supply the missing information. Applications which are not substantially complete will be returned to the applicant.

(b) Acceptance of an application for filing merely means that it has been the subject of a preliminary review by the FCC's administrative staff as to completeness. Such acceptance will not preclude the subsequent dismissal of the application if it is found to be patently not in accordance with the FCC's rules.

(c) At regular intervals the FCC will issue a Public Notice listing all applications and major amendments thereto which have been accepted for filing.

104. New § 73.3566 is added to Part 73, Subpart H, to read as follows:

§ 73.3566 Defective applications.

(a) Applications which are determined to be patently not in accordance with the FCC rules, regulations, or other requirements, unless accompanied by an appropriate request for waiver, will be considered defective and will not be accepted for filing or if inadvertently accepted for filing will be dismissed. Requests for waiver shall show the nature of the waiver or exception desired and shall set forth the reasons in support thereof.

(b) If an applicant is requested by the FCC to file any additional documents or information not included in the prescribed application form, a failure to comply with such request will be deemed to render the application defective, and such application will be dismissed.

105. New § 73. 3568 is added to Part 73, Subpart H, to read as follows:

§ 73.3568 Dismissal of applications.

(a) Subject to the provisions of § 73.3525 (Agreements for removing application conflicts), any application may, upon request of the applicant be dismissed without prejudice as a matter of right prior to the designation of such application for hearing. An applicant's request for the return of an application that has been accepted for filing will be regarded as a request for dismissal.

(b) Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal. Subject to the provisions of § 73.3525, such dismissal will be without prejudice where an application has not yet been designated for hearing, but may be made with prejudice after designation for hearing.

(c) Requests to dismiss an application without prejudice after it has been designated for hearing will be considered only upon written petition properly served upon all parties of record and, where applicable, compliance with the provisions of § 73.3525. Such requests shall be granted only upon a showing that the request is based on circumstances wholly beyond the applicant's control which preclude further prosecution of his application.

106. New § 73.3569 is added to Part 73, Subpart H, to read as follows:

§ 73.3569 Applications for frequencies adjacent to Class I–A channels.

Notwithstanding the provisions of any other rules of the FCC, all applications (regardless of when they were or may be filed) for frequencies located within 30 kHz of a Class I–A channel listed in § 73.25(a) will be subject to the provisions of this section. The provisions of paragraph (a) of this section apply to the frequencies listed therein, which are within 30 kHz of a Class I–A channel on which an unlimited time Class II assignment is specifically provided for in § 73.22 or § 73.25(a), and which are not within 30 kHz of the remaining Class I–A channels (except that the frequency 1230 kHz is considered to be within 30 kHz of duplicated I–A channels only). The provisions of paragraph (b) of this section apply to the frequencies listed in that paragraph, which are within 30 kHz of unduplicated Class I–A channels and also, in each case, within 30 kHz of Class I–A channels on which an unlimited time Class II assignment is specifically provided for in § 73.22 or § 73.25(a). For the purposes of paragraph (b)(2)(i), (ii) and (iii) of this section, the frequency 750 kHz is regarded as an unduplicated Class I–A clear channel. The provisions of paragraph (c) of this section apply to the three frequencies listed therein, which are within 30 kHz of unduplicated clear channels only.

(a)(1) The provisions of this paragraph apply to the following frequencies: 910, 920, 990, 1000, 1080, 1090, 1110, 1230, and

1240 kHz; and 740 kHz except with respect to the Class I–A clear channel 750 kHz, in which case the provisions of paragraph (b) of this section apply.

(2) Where it appears that the facilities requested in any application for one of the designated frequencies (other than an application by an existing Class IV station to increase daytime power on 1230 or 1240 kHz) involves undue risk of interference or prohibited overlap with a possible new Class II–A assignment specified in § 73.22 or a new unlimited time Class II assignment at Anchorage, Alaska, or San Diego, California, specified in § 73.25(a), such application will not be accepted for filing or, if filed prior to the effective date of this section, will not be acted upon, until the location and operating facilities of such new Class II station are established. An applicant for one of the designated frequencies shall be deemed to involve undue risk of interference with a possible new Class II assignment unless it is demonstrated that no interference would be caused to specified II–A assignments within 30 kHz, assuming such facilities to be located at the nearest point on the boundary of the nearest state specified by the Clear Channel Decision released September 14, 1961, and assuming such II–A facility radiates at least 1238 mV/m non-directionally; and in the case of frequencies within 30 kHz of 750 kHz or 760 kHz the proposed facility would not cause interference to Class II assignments at San Diego, California, or Anchorage, Alaska, specified in § 73.25(a).

(3) Assignments of new Class II facilities provided for in §§ 73.22 and 73.25(a) will be made without regard to the pendency of applications on adjacent frequencies (i.e., the ten frequencies designated in paragraph (a)(1) of this section and the additional 20 frequencies which are within 30 kHz of both duplicated and unduplicated Class I–A channels). Any hearing which may be held on an application for an adjacent frequency will not be comparative with respect to the Class II–A facility, and any issues pertaining to the mutual impact to the Class II–A and adjacent channel proposals will be confined to the question of whether, with the Class II station operating as proposed, the public interest would be served by a grant of the adjacent channel application.

(b)(1) The provisions of this paragraph apply to the following frequencies: 680, 690, 710, 730, 790, 800, 810, 850, 860, 900, 1010, 1050, 1060, 1070, 1130, 1140, 1150, 1170, 1190, and 1220 kHz; and 740 kHz with respect to the Class I–A clear channel 750 kHz.

(2) Applications for new stations on, change of existing stations to, or for any major change in operation of stations presently operating on the designated frequencies will be accepted for filing and acted upon in normal course provided they are accompanied by appropriate exhibits and necessary supporting data to show clearly the following with respect to all Class I–A channels within 30 kHz of the designated frequency:

(i) The proposed transmitter site is located inside the area encompassed by a 500 mile extension of the 0.5 mV/m–50% nighttime contour of Class I–A stations on unduplicated channels.

(ii) No interference or prohibited overlap would be caused to Class I–A stations on unduplicated I–A channels, assuming such stations operate with power increased to 750 kW with their present antenna systems and radiation patterns.

(iii) No interference or prohibited overlap would be caused to an assumed Class II–A station on an unduplicated channel, radiating at least 1238 mV/m non-directionally from the nearest point on the boundary described in (b)(2)(i) above.

(iv) No interference or prohibited overlap would be caused to presently specified Class II–A assignments, assuming such facilities to be located at the nearest point on the boundary of the nearest state specified by the Clear Channel Decision released September 14, 1961, and assuming such II–A facility radiates at least 1238 mV/m omnidirectionally; and, in the case of frequencies within 30 kHz of 750 kHz or 760 kHz, the proposed facility would not cause interference to Class II assignments at San Diego, California, or Anchorage, Alaska, specified in § 73.25(a).

(3) Applications of the type specified in paragraph (b)(2) of this section filed prior to October 30, 1961, and which failed to meet one or more of the standards specified therein, will be retained in the pending file without further processing or consideration.

(4) Appplications for other changes in facilities on the designated frequencies will be processed and acted upon in normal course.

(c)(1) The provisions of this paragraph apply to all applications for the following frequencies: 610, 620, and 630 kHz.

(2) Applications for new stations on, change of existing stations to, or for any major change in operation of stations presently operating on the designated frequencies will be accepted for filing and acted upon in normal course provided they are accompanied by appropriate exhibits and necessary supporting data to show clearly the following with respect to all Class I–A channels within 30 kHz of the designated frequency:

(i) The proposed transmitter site is located inside the area encompassed by a 500 mile extension of the 0.5 mV/m–50% nighttime contour of Class I–A stations on unduplicated channels.

(ii) No interference or prohibited overlap would be caused to Class I–A stations on unduplicated I–A channels, assuming such stations operate with power increased to 750 kW, with their present antenna systems and radiation patterns.

(iii) No interference or prohibited overlap would be caused to an assumed Class II–A station on an unduplicated channel, radiating at least 1238 mV/m non-directionally from the nearest point on the boundary described in paragraph (c)(2)(i) of this section.

(3) Applications of the type specified in paragraph (c)(2) of this section, filed prior to October 30, 1961, and which failed to meet one or more of the standards specified therein will be retained in the pending file without further processing or consideration.

(4) Applications for other changes in facilities on the designated frequencies will be processed and acted upon in normal course.

(d)(1) Applications previously accepted for filing which must be held without action pursuant to paragraph (a), (b) or (c) of this section, will not be designated for hearing unless they conflict with applications which may be acted upon in normal course.

(2) If the decision in a hearing looks toward grant of an application which may not be acted upon, pursuant to paragraph (a), (b) or (c) of this section, such application and all applications conflicting with it will be held without final action to the extent required by those paragraphs.

107. New § 73.3570 is added to Part 73, Subpart H, to read as follows:

§ 73.3570 AM broadcast station applications involving other North American countries.

(a) *Applications involving conflicts with the U.S./Mexican Agreement or with countries which have ratified NARBA.* Except for applications falling within the provisions of paragraph (b) of this section, no application will be accepted for filing if authorization of the facilities requested would be inconsistent with the provisions of the

North American Regional Broadcasting Agreement (NARBA), or the Agreement Between the United States of America and the United Mexican States Concerning Radio Broadcasting in the Standard [AM] Broadcast Band (the U.S./Mexican Agreement). Any such application which has heretofore been accepted for filing or which is inadvertently accepted for filing will be dismissed.

(b) *Applications involving conflicts only with respect to Haiti or countries which have signed but not ratified NARBA.* Applications (regardless of when they were or may be filed) for facilities which would be inconsistent with NARBA only with respect to a country which has signed but not completed formal ratification of that agreement, or which would cause objectionable interference (under the standards set forth in NARBA) to a duly notified Haitian station, will be retained in the pending file without further action, except where they conflict with other applications which do not involve international problems. In the latter situation, the various conflicting applications will be designated for hearing in a consolidated proceeding. Where an application inconsistent with international relationships as specified in this paragraph is designated for hearing, the following procedures will govern:

(1) Where all applications involved in a consolidated hearing proceeding are inconsistent with international relationships as specified in this paragraph, all will be removed from hearing status and returned to the pending file.

(2) Where one or more but not all of the applications involved in a consolidated hearing proceeding are inconsistent with international relationships as specified in this paragraph, the hearing issues will include an issue as to such inconsistency. If necessary, the hearing issues will be enlarged, and if closed, the hearing record will be reopened to include this matter. The initial decision and the final decision will contain findings and conclusions as to this issue, but neither the presiding officer nor the FCC will, in their decisions, take into account such issues in determining whether the public interest would be served by grant of any of the various applications. In the decision in such a proceeding, applications will be:

(i) Granted, where they are not inconsistent with international relationships and the public interest will be served thereby.

(ii) Denied, if denial is required because of grant of other applications or for other reasons independent of the consistency issue; or

(iii) Placed in the pending file without removal from hearing status if grant of the application woud be in the public interest except for inconsistency with international relationships as specified in this paragraph, or where denial would be only on the basis of comparative consideration with an application which is being placed in the pending file because of such inconsistency.

(3) Where an application inconsistent with international relationships is designated for hearing because of conflict with another application not involving such inconsistency, and the conflict is later removed by amendment or dismissal of the latter application, the inconsistent application will be removed from hearing status and returned to the pending file.

Note 1.—Upon ratification by Canada, Cuba and the United States, NARBA entered into force April 19, 1960; the Dominican Republic deposited its ratification on May 4, 1961, and the Bahama Islands on October 9, 1962. When the other signatory power, Jamaica, ratifies the agreement, or when Haiti (not a signatory power) formally adheres thereto, the FCC upon notification thereof will give public notice of such occurrence. Applications involving conflicts with respect to such country will thereupon automatically be removed from the provisions of paragraph (b) of this section and will fall within paragraph (a) of this section.

If Jamaica completes formal ratification of NARBA, and at that time Haiti has not yet formalized its adherence to the agreement, the FCC will give consideration to whether applications involving conflicts with Haitian stations should continue to be handled as provided in paragraph (b) of this section, or whether, in view of the then pertaining relationship with Haiti in this area, they should be handled as provided in paragraph (a) of this Section, or should be handled otherwise. Applicants for facilities involving conflicts with duly notified Haitian stations should take note of these possibilities.

Note 2.—For the purpose of this Section, an application is not regarded as inconsistent with the provisions of NARBA if it is for Class IV facilities operating with more than 250 watts but no more than 1 kW power, to be located in those portions of the United States where such facilities are not precluded under Note 1 to § 73.21(c), and where such facilities would not cause objectionable interference (under the standards set forth in NARBA) to a duly notified station in any other NARBA signatory country or in Haiti.

Note 3.—As to the use in hearings of groundwave field strength measurements involving foreign countries, see the note to § 73.183(b).

(c) *Amendment of application designated for hearing.* When, in the case of any application which has been designated for hearing on issues not including an issue as to consistency with international relationships and as to which no final decision has been rendered, action under this Section becomes appropriate because of inconsistency with international relationships, the applicant involved shall, notwithstanding the provisions of §§ 73.3522 and 73.2571, be permitted to amend its application to achieve consistency with such relationships. In such cases the provisions of § 73.3605(c) will apply.

(d) *Applications not involving conflict with NARBA or U.S./Mexican Agreement.* As a matter of general practice, applications which are consistent with NARBA and the U.S./Mexican Agreement and which would not involve objectionable interference to a duly notified Haitian assignment, will be considered and acted upon by the FCC in accordance with its established procedure. In particular cases, involving applications of this character but in which special international considerations require that a different procedure be followed, the applicant involved will be formally advised to this effect.

108. New § 73.3571 is added to Part 73, Subpart H, to read as follows:

§ 73.3571 Processing of AM broadcast station applications.

(a) Applications for AM station facilities are divided into three groups.

(1) In the first group are applications for new stations (except applications for new Class II–A stations), or for major changes in the facilities of authorized stations. A major change is any change in frequency, power, hours of operation, or station location. However, the FCC may, within 15 days after the acceptance for filing of any other application for modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore is subject to the provisions of §§ 1.1111 and 73.3580 pertaining to major changes.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(3) The group consists of applications for new Class II–A stations.

(b) If an application is amended so as to effect a major change as defined in paragraph (a)(1) of this section or so as to result in a transfer of control or assignment which, in the case of an authorized station, would require the filing of an application therefor on FCC

Form 314 or 315 (see § 73.3540), § 73.3580 will apply to such amended application.

(c) Applications for new stations (except new Class II–A stations) or for major changes in the facilities of authorized stations are processed as nearly as possible in the order in which they are filed. Such applications will be placed in the processing line in numerical sequence, and are drawn by the staff for study, the lowest file number first. Thus, the file number determines the order in which the staff's work is begun on a particular application. There are two exceptions: the Broadcast Bureau is authorized to (1) group together for processing applications which involve interference conflicts where it appears that the applications may be designated for hearing in a consolidated proceeding; and to (2) group together for processing and simultaneous consideration, without designation for hearing, all applications filed by existing Class IV stations requesting an increase in daytime power which involve interlinking interference problems only, regardless of their respective dates of filing. In order that those applications which are entitled to be grouped for processing may be fixed prior to the time processing of the earliest filed applications is begun, the FCC will periodically publish in the **Federal Register** a Public Notice listing applications which are near the top of the processing line and announcing a date (not less than 30 days after publication) on which the listed applications will be considered available and ready for processing and by which all applications excepting those specified in exception in subparagraph (2) in this paragraph must be filed if they are to be grouped with any of the listed applications. However, applications which are mutually exclusive with applications for renewal of license of AM stations will not be so listed in such a Public Notice, but will be treated as available and ready for processing upon timely filing as provided in § 73.3516(e).

(d) Applications for new Class II–A stations are placed at the head of the processing line and processed as quickly as possible. Action on such applications may be at any time more than 30 days after public notice is given of acceptance of the application for filing.

(e) The processing and consideration of applications for new stations or major changes on those frequencies specified in § 73.3569 are subject to certain restrictions, as set forth therein.

(f) Applications other than those for new stations or for major changes in the facilities of authorized stations are not placed on the processing line but are processed as nearly as possible in the order in which they are filed.

(g) Applications for change of license to change hours of operation of a Class IV station, to decrease hours of operation of any other class of station, or to change station location involving no change in transmitter site will be considered without reference to the processing line.

(h) If, upon examination, the FCC finds that the public interest, convenience and necessity will be served by the granting of an application, the same will be granted. If the FCC is unable to make such a finding and it appears that a hearing may be required, the procedure set forth in § 73.3593 will be followed.

(i) When an application which has been designated for hearing has been removed from the hearing docket, the application will be returned to its proper position (as determined by the file number) in the processing line. Whether or not a new file number will be assigned will be determined pursuant to paragraph (j) of this section, after the application has been removed from the hearing docket.

(j)(1) A new file number will be assigned to an application for a new station, or for major changes in the facilities of an authorized station, when it is amended to change frequency, to increase power, to increase hours of operation, or to change station location. Any other amendment modifying the engineering proposal, except an amendment respecting the type of equipment specified, will also result in the assignment of a new file number unless such amendment is accompanied by a complete engineering study showing that the amendment would not involve new or increased interference problems with existing stations or other applications pending at the time the amendment is filed. If, after submission and acceptance of such an engineering amendment, subsequent examination indicates new or increased interference problems with either existing stations or other applications pending at the time the amendment was received at the FCC, the application will then be assigned a new file number and placed in the processing line according to the numerical sequence of the new file number.

(2) A new file number will be assigned where an application for a new station is amended (whether by a single amendment or by a series of amendments) so as to result in an assignment or transfer of control which, in the case of an authorized station, would require the filing of an application on FCC Form 314, 315 or 345 (see § 73.3540), and § 73.3580 will apply to such amended application.

(3) An application for changes in the facilities of an existing station will continue to carry the same file number even though (pursuant to FCC approval) an assignment of license or transfer of control of said licensee or permittee has taken place if, upon consummation, the application is amended to reflect the new ownership.

(k) When an application is reached for processing, and it is necessary to address a letter to the applicant asking further information, the application will not be processed until the information requested is received, and the application will be placed in the pending file to await the applicant's response.

(l) When an application is placed in the pending file, the applicant will be notified of the reason for such action.

109. New § 73.3572 is added to Part 73, Subpart H, to read as follows:

§ 73.3572 Processing TV broadcast and TV translator station applications.

(a) Applications for TV stations are divided into two groups.

(1) In the first group are applications for new stations or major changes in the facilities of authorized stations. A major change for TV stations authorized under this part is any change in frequency or station location, or any change in power or antenna location or height above average terrain (or combination thereof) which would result in a change of 50% or more of the area within the Grade B contour of the station. (A change in area is defined as the sum of the area gained and the area lost as a percentage of the original area.) In the case of TV translators authorized under Part 74, it is any change in: (i) Frequency (output channel); (ii) primary station; (iii) principal community or area to be served; or (iv) peak visual transmitter output power to more than 100 watts. However, the FCC may, within 15 days after the acceptance of any other application for modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore subject to the provisions of §§ 73.3580 and 1.1111 pertaining to major changes.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(b) A new file number will be assigned to an application for a new station, or for major changes in the facilities of an authorized station, when it is amended so as to effect a major

change, as defined in paragraph (a)(1) of this section, or so as to result in an assignment or transfer of control (whether by a single amendment or by a series of amendments), which, in the case of an authorized station, would require the filing of an application therefor on FCC Form 314, 315 or 345 (see § 73.3540) and § 73.3580 will apply to such amended application. An application for changes in the facilities of an existing station will continue to carry the same file number even though (pursuant to FCC approval) an assignment of license or transfer of control of such licensee or permittee has taken place if, upon consummation, the application is amended to reflect the new ownership.

(c) Applications for TV stations will be processed as nearly as possible in the order in which they are filed. Such applications will be placed in the processing line in numerical sequence, and will be drawn by the staff for study, the lowest file number first. In order that those applications which are entitled to be grouped for processing may be fixed prior to the time processing for the earliest filed application is begun, the FCC will periodically publish in the **Federal Register** a Public Notice listing applications which are near the top of the processing line and announcing a date (not less than 30 days after publication) on which the listed applications will be considered available and ready for processing and by which all applications must be filed if they are to be grouped with any of the listed applications.

(d) Regardless of the number of applications filed for channels in a city or the number of assignments available in that city, those applications which are mutually exclusive, i.e., which request the same channel, will be designated for hearing. All other applications for channels will, if the applicants are duly qualified, receive grants. For example, if Channels 6, 13, 47, and 53 have been assigned to City X and there are pending two applications for Channel 6 and one application for each of the remaining channels, the latter three applications will be considered grants without hearing and the two mutually exclusive applications requesting Channel 6 will be designated for hearing. If there are two pending applications for Channel 6 and two applications for Channel 13, separate hearings will be held.

(e) Where applications are mutually exclusive because the distance between the respective proposed transmitter sites is contrary to the station separation requirements set forth in § 73.610, such applications will be processed and designated for hearing at the time the application with the lower file number is reached for processing. In order to be considered mutually exclusive with a lower file number application, the higher file number application must have been accepted for filing at least one day before the lower file number application has been acted upon by the FCC.

110. New § 73.3573 is added to Part 73, Subpart H, to read as follows:

§ 73.3573 Processing FM broadcast and FM translator station applications.

(a) Applications for FM broadcast stations are divided into two groups:

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations. A major change for FM stations authorized under this Part is any change in frequency, station location or class of station, or any change in power, antenna location or height above average terrain (or combination thereof) which would result in a change of 50% or more in the area within the station's predicted 1 mV/m field strength contour. (A change in area is defined as the sum of the area gained and the area lost as a percentage of the original area.) In the case of FM translator stations authorized under Part 74, it is any change in frequency (output channel), primary stations, or authorized principal community or area. However, the FCC may, within 15 days after the acceptance for filing of any other application for modification of facilities, advise the applicant that such application is considered to be one for a major change and therefore is subject to the provisions of §§ 73.3580 and 1.1111 pertaining to major changes.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(b) A new file number will be assigned to an application for a new station, or for major changes in the facilities of an authorized station, when it is amended so as to effect a major change, as defined in paragraph (a)(1) of this section, or so as to result in an assignment or transfer of control (whether by a single amendment or by a series of amendments), which, in the case of an authorized station, would require the filing of an application therefor on FCC Form 314, 315 or 345 (see § 73.3540), and § 73.3580 will apply to such amended application. An application for changes in the facilities of an existing station will continue to carry the same file number even though (pursuant to FCC approval) an assignment of license or transfer of control of such licensee or permittee has taken place if, upon consummation, the application is amended to reflect the new ownership.

(c) If, upon examination, the FCC finds that the public interest, convenience and necessity will be served by the granting of an application for FM broadcast facilities (Class A, Class B, Class C or noncommercial educational), the same will be granted. If, on the other hand, the FCC is unable to make such a finding and it appears that a hearing may be required, the procedure set forth in § 73.3593 will be followed.

(d) Applications for FM broadcast stations will be processed as nearly as possible in the order in which they are filed. Such applications will be placed in the processing line in numerical sequence, and will be drawn by the staff for study, the lowest file number first. In order that those applications which are entitled to be grouped for processing may be fixed prior to the time processing of the earliest filed application is begun, the FCC will periodically publish in the **Federal Register** a Public Notice listing applications which are near the top of the processing line and announcing a date (not less than 30 days after publication) on which the listed applications will be considered available and ready for processing and by which all applications must be filed if they are to be grouped with any of the listed applications.

(e) Where applications are mutually exclusive because the distance between their respective proposed transmitter sites is contrary to the station separation requirements set forth in § 73.207 (§ 73.504 for noncommercial educational FM stations), such applications will be processed and designated for hearing at the time the application with the lower file number is reached for processing. In order to be considered mutually exclusive with a lower file number application, the higher file number application must have been accepted for filing at least one day before the lower file number application has been acted upon by the FCC.

Note.—Processing of applications for new low power educational FM applications:

Pending the Commission's restudy of the impact of the rule changes pertaining to the allocations of 10-watt and other low power noncommercial educational FM stations, applications for such new stations, or major changes in existing ones, will not be accepted for filing. Exceptions are: (1) In Alaska, applications for new Class D stations or major changes in existing ones are acceptable for filing; and (2) applications for existing Class D stations to change frequency are acceptable for filing. In (2), upon the grant

of such application, the station shall become a Class D (secondary) station. (See First Report and Order, Docket 20735, FCC 78-386, 43 FR 25821, and Second Report and Order, Docket 20735, FCC 78-384, 43 FR 39704.) Effective date of this FCC imposed "freeze" was June 15, 1978. Applications which specify facilities of at least 100 watts effective radiated power will be accepted for filing.

111. New § 73.3574 is added to Part 73, Subpart H, to read as follows:

§ 73.3574 Processing of international broadcast station applications.

(a) Applications for International station facilities are divided into two groups.

(1) In the first group are applications for new stations, or for major changes in the facilities of authorized stations. A major change is any change in or addition to authorized zones or areas of reception, any change in transmitter location other than one in the immediate vicinity of existing antennas of the station, or any change in power, or antenna directivity. However, the FCC may, within 15 days after the acceptance for filing of any other application for modification, advise the applicant that such application is considered to be one for a major change and therefore is subject to §§ 1.1111 and 73.3580 pertaining to major changes.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

(b) If an application is amended so as to effect a major change as defined in paragraph (a)(1) of this section, or so as to result in an assignment or transfer of control which, in the case of an authorized station, would require the filing of an application therefor on FCC Form 314 or 315 (see § 73.3540), § 73.3580 will apply to such amended application.

(c) Applications for International stations will be processed as nearly as possible in the order in which they are filed.

112. New § 73.3578 is added to Part 73, Subpart H, to read as follows:

§ 73.3578 Amendments to applications for renewal, assignment or transfer of control.

(a) Any amendment to an application for renewal of any instrument of authorization shall be considered to be a minor amendment, except that any amendment which seeks to change the proposals contained therein relating to future programming of a station shall be considered to be a major amendment. However, the FCC may, within 15 days after tender for filing of any other amendment, advise the applicant that the amendment is considered to be a major amendment and therefore is subject to the provisions of § 73.3580.

(b) Any amendment to an application for assignment of construction permit or license, or consent to the transfer of control of a corporation holding such a construction permit or license, shall be considered to be a minor amendment, except that any amendment which seeks a change in the ownership interest of the proposed assignee or transferee which would result in a change in control, or any amendment which would require the filing of FCC Forms 314, 315, or 345 (see § 73.3540), if the changes sought were made in an original application for assignment or transfer of control, shall be considered to be a major amendment. However, the FCC may, within 15 days after the acceptance for filing of any other amendment, advise the applicant that the amendment is considered to be a major amendment and therefore is subject to the provisions of § 73.3580.

113. New § 73.3580 is added to Part 73, Subpart H, to read as follows:

§ 73.3580 Local public notice of filing of broadcast applications.

(a) All applications for instruments of authorization in the broadcast service (and major amendments thereto, as indicated in §§ 73.3571, 73.3572, 73.3573, 73.3574 and 73.3578) are subject to the local public notice provisions of this section, except applications for:

(1) A minor change in the facilities of an authorized station, as indicated in §§ 73.3571, 73.3572, 73.3573 and 73.3574.

(2) Consent to an involuntary assignment or transfer or to a voluntary assignment or transfer which does not result in a change of control and which may be applied for on FCC Form 316 pursuant to the provisions of § 73.3540(b).

(3) A license under Section 319(c) of the Communications Act or, pending application for or grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such license.

(4) Extension of time to complete construction of authorized facilities.

(5) An authorization of facilities for remote pickup or studio links for use in the operation of a broadcast station.

(6) Authorization pursuant to Section 325(b) of the Communications Act ("* * * studios of foreign stations") where the programs to be transmitted are special events not of a continuing nature.

(7) An authorization under any of the proviso clauses of Section 308(a) of the Communications Act concerning applications for and conditions in licenses.

(b) Applications (as originally filed or amended) will be acted upon by the FCC no sooner than 30 days following public notice of acceptance for filing or amendment. However, in extraordinary circumstances requiring emergency operation to serve the public interest, the FCC may grant a temporary authorization accompanied by a statement of its reason therefor. Such grant would permit emergency operation for a period of not more than 90 days. If like finding can be made, the FCC may extend the temporary authorization for one additional period not to exceed 90 days.

(c) An applicant who files an application or amendment thereto which is subject to the provisions of this section, must give a notice of this filing in a newspaper. Exceptions to this requirement are applications for renewal of AM, FM and TV station licenses, applications for International broadcast stations, TV and FM translator stations, FM booster stations; and applicants subject to paragraph (e) of this section. The filing notice shall be given in a newspaper either immediately following the tendering for filing of the application or amendment, or immediately following notification to the applicant by the FCC that a major change is involved requiring the applicant to give public notice pursuant to §§ 73.3571, 73.3572, 73.3573 or 73.3578.

(1) *Notice requirements for these applicants are as follows:*

(i) In a daily newspaper of general circulation published in the community in which the station is located, or proposed to be located, at least twice a week for two consecutive weeks in a three-week period; or,

(ii) If there is no such daily newspaper, in a weekly newspaper of general circulation published in that community, once a week for 3 consecutive in a 4-week period; or,

(iii) If there is no daily or weekly newspaper published in that community, in the daily newspaper from wherever published, which has the greatest general circulation in that community, twice a week for 2 consecutive weeks within a 3-week period.

(2) *Notice requirements for applicants for a permit pursuant to section 325(b) of the Communications Act ("* * * Studios of Foreign Stations") are as follows:*

(i) In a daily newspaper of general circulation in the largest city in the principal area to be served in the U.S.A. by the foreign broadcast station, at least

twice a week for 2 consecutive weeks within a three-week period.

(3) *Notice requirements for applicants for a change in station location are as follows:*

(i) In the community in which the station is located and the one in which it is proposed to be located, in a newspaper with publishing requirements as in paragraph (c)(1)(i), (ii) or (iii) of this section.

(4) The notice required in paragraph (f)(1), (2) and (3) of this section shall contain the information described in paragraph (f) of this section.

(d) The licensee of an operating broadcast station who files an application or amendment thereto which is subject to the provisions of this section must give notice as follows:

(1) *An applicant who files for renewal of a broadcast station license* must give notice of this filing by broadcasting announcements on applicant's station. (Sample and schedule of announcements are below.) Newspaper publication is not required.

(2) An applicant who files an amendment of an application for renewal of a broadcast station license will comply with paragraph (d)(1) of this section.

(3) An applicant who files for modification, assignment or transfer of a broadcast station license (except for International broadcast stations, TV or FM translator stations and FM booster stations) shall give notice of the filing in a newspaper as described in paragraph (c) of this section, and also broadcast the same notice over that station as follows:

(i) At least once daily on 4 days in the second week immediately following either the tendering for filing of the application or immediately following notification to the applicant by the FCC that Public Notice is required pursuant to §§ 73.3571, 73.3572, 73.3573 or § 73.3578.

(4) The broadcast notice requirements for those filing renewal applications and amendments thereto are as follows:

(i) *Pre-filing announcements.* During the period and beginning on the first day of the sixth full calendar month prior to the expiration of the license, and continuing to the date on which the application is filed, the following announcement shall be broadcast on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We must file an application for license renewal with the FCC (date four calendar months prior to expiration date). When filed, a copy of this application will be available for public inspection during our regular business hours. It contains information concerning this station's performance during the last (period of time covered by the application) and projections of our programming during the next three years.

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station's public inspection file) or may be obtained from the FCC, Washington, D.C. 20554.

(A) This announcement shall be made during the following time periods:

(*1*) For commercial TV stations—at least two of the required announcements between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain Time).

(*2*) For commercial radio stations—at least two of the required announcements between 7 a.m. and 9 a.m. and/or 4 p.m. and 6 p.m. For stations which neither operate between 7 a.m. and 9 a.m. nor between 4 p.m. and 6 p.m., at least two of the required announcements shall be made during the first two hours of broadcast operation.

(*3*) For noncommercial educational stations, at the same time as commercial stations, except that such stations need not broadcast the announcement during any month during which the station does not operate.

(ii) *Post-filing announcements.* During the period beginning on the date on which the renewal application is filed to the sixteenth day of the next to last full calendar month prior to the expiration of the license, all applicants for the renewal of broadcast station licenses shall broadcast the following announcement on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We have filed an application for license renewal with the FCC.

A copy of this application is available for public inspection during our regular business hours. It contains information concerning this station's performance during the last (period of time covered by application) and projections of our programming during the next three years.

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station's public inspection file) or may be obtained from the FCC, Washington, D.C. 20554.

(A) This announcement shall be made during the following time periods:

(*1*) For commercial TV stations—at least three of the required announcements between 6 p.m. and 11 p.m. (5 p.m. and 10 p.m. Central and Mountain time), at least one announcement between 9 a.m. and 1 p.m., at least one announcement between 1 p.m. and 5 p.m., and at least one annuncement between 5 p.m. and 7 p.m.

(*2*) For commercial radio stations—at least three of the required announcements between 7 a.m. and 9 a.m. and/or 4 p.m. and 6 p.m., at least one announcement between 9 a.m. and noon, at least one announcement between noon and 4 p.m., and at least one announcement between 7 p.m. and midnight. For stations which do not operate between 7 a.m. and 9 a.m. or between 4 p.m. and 6 p.m., at least three of the required announcements shall be made during the first two hours of broadcast operation.

(*3*) For noncommercial educational stations, at the same time as commercial stations, except that such stations need not broadcast the announcement during any month during which the station does not operate. In such instances noncommercial educational stations shall meet the requirements in the exact order specified in subdivision (ii)(A)(*1*) or (*2*) of this Subparagraph (e.g., if only four renewal notices are broadcast by an educational TV licensee, 3 must be broadcast between 6 p.m. and 11 p.m. and the fourth between 9 a.m. and 1 p.m.).

(iii) TV broadcast stations (commercial and noncommercial educational), in presenting the pre- and post-filing announcements, must use visuals with the licensee's and the FCC's addresses when this information is being orally presented by the announcer.

(iv) Stations which have not received a renewal grant since the filing of their previous renewal application, shall use

the following first paragraph for the pre-filing and the post-filing announcements:

(*Station's call letters*) is licensed by the Federal Communications Commission to serve the public interest as a public trustee.

(v) During the period beginning on the first day of the sixth full calendar month prior to the expiration of the broadcast station license up to the first day of the last full calendar month prior to expiration, the public notice requirements under § 73.1202 do not apply.

(e) When the station in question is the only operating station in its broadcast service which is located in the community involved, or if it is a noncommercial educational station, publication of the notice in a newspaper, as provided in paragraph (c) of this section is not required, and publication by broadcast over that station as provided in paragraph (d) of this section shall be deemed sufficient to meet the notice requirements of this section. Noncommercial educational broadcast stations which do not broadcast during the portion of the year in which the period of broadcast of notice falls must comply with the provisions of paragraph (c) of this section.

(f) The notice required by paragraphs (c) and (d) of this section shall contain the following information, except as otherwise provided in paragraphs (d)(1) and (2) and (e) of this section in the case of license renewal applications:

(1) The name of the applicant, if the applicant is an individual; the names of all partners, if the applicant is a patnership; or the names of all officers and directors and of those persons holding 10% or more of the capital stock or other ownership interest if the applicant is a corporation or an unincorporated association. (In the case of applications for assignment or transfer of control, information should be included for all parties to the application.)

(2) The purpose for which the application was filed (such as, construction permit, modification, transfer or assignment of control).

(3) The date when the application or amendment was tendered for filing with the FCC.

(4) The call letters, if any, of the station, and the frequency or channel on which the station is operating or proposes to operate.

(5) In the case of an application for construction permit for a new station, the facilities sought, including type and class of station, power, location of studios, transmitter site and antenna height.

(6) In the case of an application for modification of a construction permit or license, the exact nature of the modification sought.

(7) In the case of an amendment to an application, the exact nature of the amendment.

(8) In the case of applications for a permit pursuant to Section 325(b) of the Communications Act ("* * * studios of foreign stations"), the call letters and location of the foreign radio broadcast station, the frequency or channel on which it operates, and a description of the programs to be transmitted over the station.

(9) A statement that a copy of the application, amendment(s), and related material are on file for public inspection at a stated address in the community in which the main studio is maintained or is proposed to be located. See §§ 73.3526 and 73.3527.

(g) An applicant who files an application or amendment thereto for a TV or FM translator station or an FM booster station must give notice of this filing in a daily, weekly or biweekly newspaper of general circulation in the community or area to be served. The filing notice will be given immediately following the tendering for filing of the application or amendment, or immediately following notification to the applicant by the FCC that public notice is required pursuant to §§ 73.3671, 73.3572, 73.3573 or 73.3578.

(1) *Notice requirements for these applicants are as follows:*

(i) In the newspaper at least once during a 2-week period; or,

(ii) If there is no newspaper published or having circulation in the community or area to be served, the applicant shall determine an appropriate means of providing the required notice to the general public, such as posting in the local post office or other public place. The notice shall state:

(A) The name of the applicant, the community or area to be served, and the transmitter site.

(B) The purpose for which the application was filed (such as an application for a new translator station, for authority to make changes in an existing translator station, for assignment or transfer of control).

(C) The date when the application or amendment was filed with the FCC.

(D) The output channel or channels on which the station is operating or proposes to operate and the power used or proposed to be used.

(E) In the case of an application for changes in authorized facilities, the nature of the changes sought.

(F) In the case of a major amendment to an application, the nature of the amendment.

(G) A statement that the station engages in or intends to engage in rebroadcasting, and the call letters, location and channel of operation of each station whose signals it is rebroadcasting or intends to rebroadcast.

(h) Within 7 days of the last day of publication in a newspaper or broadcast of the notice required by paragraphs (c), (d) or (g) of this section, the applicant shall file a statement with the FCC (in triplicate if filed pursuant to paragraph (c) or (d); original only, if filed pursuant to paragraph (g)), setting forth the dates on which the notice was published, the newspaper in which the notice was published, the text of the notice, and/or, where applicable, the dates and times that the notice was broadcast and the text thereof. When public notice is given by other means, as provided in paragraph (g) of this section, the applicant shall file, within 7 days of the giving of such notice, the text of the notice, the means by which it was accomplished, and the date thereof.

(i) Paragraphs (a) through (h) of this section apply to major amendments to license renewal applications. See § 73.3578(a).

114. New § 73.3584 is added to Part 73, Subpart H, to read as follows:

§ 73.3584 Petitions to deny.

(a) Any party in interest may file with the FCC a petition to deny any application (whether as orginially filed or if amended so as to require a new file number pursuant to §§ 73.3571(j), 73.3572(b), 73.3573(b) or 74.3574(b)) for which local notice pursuant to § 73.3580 is required, provided such petitions are filed prior to the day such applications are granted or designated for hearing; but where the FCC issues a public notice pursuant to the provisions of §§ 73.3571(c), 73.3572(c) or 73.3573(d), establishing a "cut-off" date, such petitions must be filed by the date specified. In the case of applications for renewal of license, petitions to deny may be filed at any time up to the last day for filing mutually exclusive applications under § 73.3516(e). Petitions to deny shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be *prima facie* inconsistent with the pubic interest, convenience and necessity. Such allegations of fact shall, except for those for which official notice may be taken, be supported by affidavit of a person or persons with personal

knowledge thereof. Requests for extension of time to file petitions to deny applications for new broadcast stations or major changes in the facilities of existing stations or applications for renewal of license will not be granted unless all parties concerned, including the applicant, consent to such requests, or unless a compelling showing can be made that unusual circumstances make the filing of a timely petition impossible and the granting of an extension warranted.

(b) The applicant may file an opposition to any petition to deny, and the petitioner a reply to such opposition in which allegations of fact or denials thereof shall be supported by affidavit of a person or persons with personal knowledge thereof. The times for filing such oppositions and replies shall be those provided in § 1.45 except that as to a petition to deny an application for renewal of license, an opposition thereto may be filed within 30 days after the petition to deny is filed, and the party that filed the petition to deny may reply to the opposition within 20 days after the opposition is due or within 20 days after the opposition is filed, whichever is longer. The failure to file an opposition or a reply will not necessarily be construed as an admission of any fact or argument contained in a pleading.

(c) Untimely petitions to deny, as well as other pleadings in the nature of a petition to deny, and any other pleadings or supplements which do not lie as a matter of law or are otherwise procedurally defective, are subject to return by the FCC's staff without consideration.

115. New § 73.3587 is added to Part 73, Subpart H, to read as follows:

§ 73.3587 Procedure for filing informal objections.

Before FCC action on any application for an instrument of authorization, any person may file informal objections to the grant. Such objections may be submitted in letter form (without extra copies) and shall be signed. The limitation on pleadings and time for filing pleadings provided for in § 1.45 of the rules shall not be applicable to any objections duly filed under this section.

116. A new undesignated headnote, ACTION ON APPLICATIONS is added to Part 73, Subpart H, immediately preceding § 73.3591, Grants without hearing.

Action on Applications

117. New § 73.3591 is added to Part 73, Subpart H, to read as follows:

§ 73.3591 Grants without hearing.

(a) In the case of any application for an instrument of authorization, other than a license pursuant to a construction permit, the FCC will make the grant if it finds (on the basis of the application, the pleadings filed or other matters which it may officially notice) that the application presents no substantial and material question of fact and meets the following requirements:

(1) There is not pending a mutually exclusive application filed in accordance with paragraph (b) of this section;

(2) The applicant is legally, technically, financially, and otherwise qualified;

(3) The applicant is not in violation of provisions of law, the FCC rules, or established policies of the FCC; and

(4) A grant of the application would otherwise serve the public interest, convenience and necessity.

(b) In making its determinations pursuant to the provisions of paragraph (a) of this section, the FCC will not consider any other application, or any other application if amended so as to require a new file number, as being mutually exclusive or in conflict with the application under consideration unless such other application was substantially complete and tendered for filing by whichever date is earlier:

(1) The close of business on the day preceding the day on which the Commission votes to grant the prior-filed application or to designate it for hearing, or in the case of action by delegated authority, the day on which the person acting under such delegated authority signs the document by which such action is taken; or

(2) The close of business on the day preceding the day designated by Public Notice in the **Federal Register** as the day the application under consideration is available and ready for processing; or

(3) The date prescribed in § 73.3516(e) in the case of applications which are mutually exclusive with applications for renewal of license of broadcast stations.

(c) If a petition to deny the application has been filed in accordance with § 73.3584 and the FCC makes the grant in accordance with paragraph (a) of this section, the FCC will deny the petition and issue a concise statement setting forth the reasons for denial and disposing of all substantial issues raised by the petition.

118. New § 73.3592 is added to Part 73, Subpart H, to read as follows:

§ 73.3592 Conditional grant.

(a) Where a grant of an application would preclude the grant of any application or applications mutually exclusive with it, the FCC may, if the public interest will be served thereby, make a conditional grant of one of the applications and designate all of the mutually exclusive applications for hearing. Such conditional grant will be made upon the express condition that such grant is subject to being withdrawn if, at the hearing, it is shown that public interest will be better served by a grant of one of the other applications. Such conditional grants will be issued only where it appears:

(1) That some or all of the applications were not filed in good faith but were filed for the purpose of delaying or hindering the grant of another application; or

(2) That public interest requires the prompt establishment of broadcast service in a particular community or area; or

(3) That a grant of one or more applications would be in the public interest, and that a delay in making a grant to any applicant until after the conclusion of a hearing on all applications might jeopardize the rights of the United States under the provisions of international agreement to the use of the frequency in question; or

(4) That a grant of one application would be in the public interest, and that it appears from an examination of the remaining applications that they cannot be granted because they are in violation of provisions of the Communications Act, other statutes, or the provisions of the FCC rules.

(b) When two or more applications for the same AM, FM or TV assignment have been designated for hearing, the FCC may, if the public interest will be served thereby, make a conditional grant to a group composed of any two or more of the competing applicants, such grant to terminate when the successful applicant commences operation under the terms of a regular authorization. No conditional grant will be made unless all of the competing applicants have been afforded a reasonable opportunity to participate in the group seeking the conditional grant. In its application, the group shall include a special showing as to the need for the service pending operation by the successful applicant under the terms of a regular authorization; the effect, if any, of a grant on the position of any applicant which is not a member of the group; and any other factors which are deemed pertinent to the public interest judgment.

119. New § 73.3593 is added to Part 73, Subpart H, to read as follows:

§ 73.3593 Designation for hearing.

If the FCC is unable, in the case of any application for an instrument of authorization, to make the findings specified in § 73.3591(a), it will formally designate the application for hearing on the grounds or reasons then obtaining and will forthwith notify the applicant and all known parties in interest of such action and the grounds and reasons therefor, specifying with particularity the matters and things in issue but not including issues or requirements phrased generally.

120. New § 73.3594 is added to Part 73, Subpart H, to read as follows:

§ 73.3594 Local public notice of designation for hearing.

(a) Except as otherwise provided in paragraph (c) of this section, when an application subject to the provisions of § 73.3580 (except for applications in the International broadcast service, for TV or FM translator stations and FM booster stations) is designated for hearing, the applicant shall give notice of such designation as follows: Notice shall be given at least twice a week, for 2 consecutive weeks within the 3-week period immediately following release of the FCC's order, specifying the time and place of the commencement of the hearing, in a daily newspaper of general circulation published in the community in which the station is located or proposed to be located.

(1) However, if there is no such daily newspaper published in the community, the notice shall be given as follows:

(i) If one or more weekly newspapers of general circulation are published in the community in which the station is located or proposed to be located, notice shall be given in such a weekly newspaper once a week for 3 consecutive weeks within the 4-week period immediately following the release of the FCC's order, specifying the time and place of the commencement of the hearing;

(ii) If no weekly newspaper of general circulation is published in the community in which the station is located or proposed to be located, notice shall be given at least twice a week for 2 consecutive weeks within the 3-week period immediately following the release of the FCC's orders, specifying the time and place of the commencement of the hearing in the daily newspaper having the greatest general circulation in the community in which the station is located or proposed to be located.

(2) In the case of an application for a permit pursuant to Section 325(b) of the Communications Act, the notice shall be given at least twice a week for 2 consecutive weeks within the 3-week period immediately following release of the FCC's order, specifying the time and place of the commencement of the hearing in a daily newspaper of general circulation in the largest city in the principal area to be served in the United States by the foreign radio broadcast station.

(3) In the case of an application for change in the location of a station, the notice shall be given both in the community in which the station is located and in the community in which the station is proposed to be located.

(b) When an application which is subject to the provisions of § 73.3580 and which seeks modification, assignment, transfer, or renewal of an operating broadcast station is designated for hearing (except for applications in the International broadcast service, for TV or FM translator stations and FM booster stations), the applicant shall, in addition to giving notice of such designation as provided in paragraph (a) of this section, cause the same notice to be broadcast over that station at least once daily on 4 days in the second week immediately following the release of the FCC's order, specifying the time and place of the commencement of the hearing. In the case of TV broadcast stations and noncommerical educational TV broadcast stations, such notice shall be broadcast orally with camera focused on the announcer. The notice required by this paragraph shall be broadcast during the following periods:

(1) For commercial TV stations, between 7:00 p.m. and 10:00 p.m.

(2) For commercial AM and FM stations, between 7:00 a.m. and 10:00 a.m., but if such stations do not operate during those hours, then between 6:00 p.m. and 9:00 p.m.

(3) For noncommercial educational TV stations, between 7:00 p.m. and 10:00 p.m., but if the period of broadcast of notice falls within a portion of the year during which such stations do not broadcast, then such stations need not comply with the provisions of this paragraph.

(4) For noncommercial educational AM and FM stations, between 3:00 p.m. and 10:00 p.m., but if the period of broadcast of notice falls within a portion of the year during which such stations do not broadcast, then such stations need not comply with the provisions of this paragraph.

(c) If the station in question is the only operating station in its broadcast service which is located in the community involved, or if it is a noncommerical educational station, publication of the notice in a newspaper, as provided in paragraph (a) of this section, is not required, and publication by broadcast over that station as provided in paragraph (b) of this section shall be deemed sufficient to meet the requirements of paragraphs (a) and (b) of this section. However, noncommercial educational stations which do not broadcast during the portion of the year in which the period of broadcast of notice falls must comply with the provisions of paragraph (a) of this section.

(d) The notice required by paragraphs (a) and (b) of this section shall state:

(1) The name of the applicant or applicants designated for hearing.

(2) The call letters, if any, of the stations or stations involved, and the frequencies or channels on which the station or stations are operating or proposed to operate.

(3) The time and place of the hearing.

(4) The issues in the hearing as listed in the FCC's order of designation for hearing.

(5) A statement that a copy of the application, amendment(s), and related material are on file for public inspection at a stated address in the community in which the main studio is maintained or is proposed to be located. See §§ 73.3526 and 73.3527.

(e) When an application for renewal of license is designed for hearing, the notice shall contain the following additional statements:

(1) Immediately preceding the listing of the issues in the hearing:

The application of this station for a renewal of its license to operate this station in the public interest was tendered for filing with the Federal Communications Commission on (*date*). After considering this application, the FCC has determined that it is necessary to hold a hearing to decide the following questions:

(2) Immediately following the listing of the issues in the hearing:

The hearing will be held at (*place of hearing*) commencing at (*time*), on (*date*). Members of the public who desire to give evidence concerning the foregoing issues should write to the Federal Communications Commission, Washington, D.C. 20554, not later than (*date*). Letters should set forth in detail the specific facts concerning which the writer wishes to give evidence. If the FCC believes that the evidence is legally competent, material, and relevant to the issues, it will contact the person in question.

(Here the applicant shall insert, as the date on or before which members of the public who desire to give evidence should write to the FCC, the date 30 days after the date of release of the FCC's order specifying the time

and place of the commencement of the hearing.)

(f) When an application for a TV or FM translator station, or an FM booster station which is subject to the provisions of § 73.3580 is designated for hearing, the applicant shall give notice of such designation as follows: Notice shall be given at least once during the 2-week period immediately following release of the FCC's order, specifying the time and place of the commencement of the hearing in a daily, weekly or biweekly publication having general circulation in the community or area to be served. However, if there is no publication of general circulation in the community or area to be served, the applicant shall determine an appropriate means of providing the required notice to the general public, such as posting in the local post office or other public place. The notice shall state:

(1) The name of the applicant or applicants designated for hearing.

(2) The call letters, if any, of the station or stations involved, the output channel or channels of such stations, and the call letters, channel and location of the station or stations being or proposed to be rebroadcast.

(3) The time and place of the hearing.

(4) The issues in the hearing as listed in the FCC's order of designation for hearing.

(5) If the application is for renewal of license, the notice shall contain, in addition to the information required by paragraph (1) through (4) of this section, the statements required by paragraph (e) of this section.

(g) Within 7 days of the last day of publication or broadcast of the notice required by paragraphs (a) and (b) of this section, the applicant shall file a statement in triplicate with the FCC setting forth the dates on which the notice was published, the newspaper in which the notice was published, the text of the notice, and/or, where applicable, the date and time the notice was broadcast and the text thereof. When public notice is given by other means, as provided in pararaph (f) of this section, the applicant shall file, within 7 days of the giving of such notice, the text of the notice, the means by which it was accomplished, and the date thereof.

(h) The failure to comply with the provisions of this Section is cause for dismissal of an application with prejudice. However, upon a finding that applicant has complied (or proposes to comply) with the provisions of Section 311(a)(2) of the Communications Act, and that the public interest, convenience and necessity will be served thereby, the presiding officer may authorize an applicant, upon a showing of special circumstances, to publish notice in a manner other than that prescribed by this Section; may accept publication of notice which does not conform strictly in all respects with the provisions of this section; or may extend the time for publishing notice.

121. New § 73.3597 is added to Part 73, Subpart H, to read as follows:

§ 73.3597 Procedures on transfer and assignment applications.

(a) If, upon the examination of an application for FCC consent to an assignment of a broadcast construction permit or license or for a transfer of control of a corporate permittee or licensee, it appears that the station involved has been operated by the proposed assignor or transferor for less than three successive years, the application will be designated for hearing on appropriate issues unless the FCC is able to find that:

(1) The application involves an FM or TV translator station or FM booster station only;

(2) The application involves a *pro forma* assignment or transfer of control; or

(3) The assignor or transferor has made an affirmative factual showing, supported by affidavits of a person or persons with personal knowledge thereof, which establishes that, due to unavailability of capital, to death or disability of station principals, or to other changed circumstances affecting the licensee or permittee occurring subsequent to the acquisition of the license or permit, FCC consent to the proposed assignment or transfer of control will serve the public interest, convenience and necessity.

(b) The commencement date of the 3-year period set forth in paragraph (a) of this section shall be determined as follows:

(1) Where the authorizations involved in the application consist of a license and a construction permit authorizing a major change in the facilities of the licensed station (as defined in §§ 73.3571, 73.3572 and 73.3573), the 3-year period shall commence with the date of the FCC's grant of the construction permit for the modification. However, when operating authority has been issued to cover the construction permit for a major change in facility, the commencement date for calculating the length of time the station has been operated for purposes of this Section shall then revert to the date the licensee received its original operating authority. A grant of authority for minor modifications in authorized facilities shall have no effect upon the calculation of this time period.

(2) Where the authorization involved in the application consists of a permit authorizing the construction of a new facility, or of a license covering such permit, the 3-year period shall commence with the date of issuance of initial operating authority.

(3) Where the operating station involved in the application was obtained by means of an assignment or transfer of control (other than *pro forma*), the 3-year period shall commence with the date of grant by the FCC of the application for the assignment or transfer of control. If the station was put in operation after such assignment or transfer, paragraph (b)(1) and (2) of this section shall apply.

(4) Where an application is filed for FCC consent to a transfer of control of a corporation holding multiple licenses and/or construction permits, the commencement date applicable to the last-acquired station shall apply to all the stations involved in the transfer, except where the application involves an FM station operated for less than 3 years and an AM station operated for more than 3 years, both serving substantially the same area. This exception shall apply to the same circumstances where assignment applications are involved.

(c) In determining whether a broadcast interest has been held for 3 years, the FCC will calcuate the period between the date of acquisition (as specified in paragraph (b) of this section) and the date the application for transfer or assignment is tendered for filing with the FCC. The period for which an FM station licensee holds a subsidiary communications authorization (SCA) is not considered in the 3-year determination.

(d) With respect to applications filed after the 3-year period, the Chief of the Broadcast Bureau is directed to examine carefully such applications, on a case-to-case basis, to determine whether any characteristics of trafficking remain and, if so, to seek additional information, by letter inquiries to the applicants, such as that which would be required to be developed and tested in the hearing process with respect to stations held less than 3 years.

(e)(1) As used in paragraphs (e) and (f) of this section:

(i) "Unbuilt station" refers to an AM, FM or TV broadcast station for which a construction permit is outstanding, and, regardless of the stage of physical completion, for which Program Test Authority has not been issued.

(ii) "Seller" includes the assignor(s) of a construction permit for an unbuilt station, the transferor(s) of control of the holder of such construction permit, and any principal or such assignor(s) or transferor(s) who retains an interest in the permittee or acquires or reacquires such interest within 1 year after the issuance of Program Test Authority.

(2) The FCC will not consent to the assignment or transfer of control of the construction permit of an unbuilt station if the agreements or understandings between the parties provide for, or permit, payment to the seller of a sum in excess of the aggregate amount clearly shown to have been legitimately and prudently expended and to be expended by the seller, solely for preparing, filing, and advocating the grant of the construction permit for the station, and for other steps reasonably necessary toward placing the station in operation.

(3)(i) Applications for consent to the assignment of a construction permit or transfer of control shall, in the case of unbuilt stations, be accompanied by declarations both by the assignor (or transferor) and by the assignee (or transferee) that, except as clearly disclosed in detail in the applications, there are no agreements or understandings for reimbursement of the seller's expenses or other payments to the seller, for the seller's retention of any interest in the station, for options or any other means by which the seller may acquire such an interest, or for any other actual or potential benefit to the seller in the form of loans, the subsequent repurchase of the seller's retained interest, or otherwise.

(ii) When the seller is to receive reimbursement of his expenses, the applications of the parties shall include an itemized accounting of such expenses, together with such factual information as the parties rely upon for the requisite showing that those expenses represent legitimate and prudent outlays made solely for the purposes allowable under paragraph (e)(2) of this section.

(f)(1) Whenever an agreement for the assignment of the construction permit of an unbuilt station or for the transfer of control of the permittee of an unbuilt station, or any arrangement or understanding incidental thereto, provides for the retention by the seller of any interest in the station, or for any other actual or potential benefit to the seller in the form of loans or otherwise, the question is raised as to whether the transaction involves actual or potential gain to the seller over and above the legitimate and prudent out-of-pocket expenses allowable under paragraph (e)(2) of this section. In such cases the FCC will designate the assignment or transfer applications for evidentiary hearing. However, a hearing is not mandatory in cases coming within paragraph (f)(2) of this section.

(2) It is not intended to forbid the seller to retain an equity interest in an unbuilt station which he is transferring or assigning if the seller obligates himself, for the period ending 1 year after the issuance of Program Test Authority, to provide that part of the total capital made available to the station, up to the end of that period, which is proportionate to the seller's equity share in the permittee, taking into account equity capital, loan capital, and guarantees of interest and amortization payments for loan capital provided by the seller before the transfer or assignment. This condition will be satisfied:

(i) In the case of equity capital: By paid-in cash capital contributions proportionate to the seller's equity share;

(ii) In cases where any person who has an equity interest in the permittee provides loan capital: By the seller's provision of that part of the total loan capital provided by equity holders which is proportionate to the seller's equity share; and

(iii) In cases where any person cosigns or otherwise guarantees payments under notes given for loan capital provided by nonequity holders: By similar guarantees by the seller covering that part of such payments as is proportionate to the seller's equity share. However, this condition shall not be deemed to be met if the guarantees given by persons other than the seller cover, individually or collectively, a larger portion of such payments than the ratio of the combined equities of persons other than the seller to the total equity.

(3) In cases which are subject to the requirements of paragraph (f)(2) (i), (ii) and (iii) of this section:

(i) The assignee's (or transferee's) application shall include a showing of the anticipated capital needs of the station through the first year of its operation and the seller's financial capacity to comply with the above requirements, in the light of such anticipated capital needs.

(ii) The FCC will determine from its review of the applications whether a hearing is necessary to ensure compliance with the above requirements.

(iii) Compliance with the above requirements will be subject to review by the FCC at any time, either when considering subsequently filed applications or whenever the FCC may otherwise find it desirable.

(iv) Within 30 days after any time when a seller is required to provide equity or loan capital or execute guarantees, the permittee shall furnish the FCC a written report containing sufficient details as to the sources and amounts of equity capital paid in, loan capital made available, or guarantees obtained as to enable the FCC to ascertain compliance with the above requirements.

(v) No steps shall be taken by the permittee to effectuate arrangements for the provision of equity or loan capital from sources not previously identified and disclosed to the FCC, until 30 days after the permittee has filed with the FCC a report of such arrangements and of provisions made for the seller's compliance with the above requirement.

(vi) The provisions of paragraph (f)(3) (iv) and (v) of this section shall cease to apply 1 year after the issuance of Program Test Authority.

(4) Applications subject to this paragraph (f) will, in any event, be designated for evidentiary hearing in any case where the agreements, arrangements or understandings with the seller provide for the seller's option to acquire equity in the station or to increase equity interests he retains at the time of the assignment or transfer of control. An evidentiary hearing will similarly be held in any case in which the assignee(s), transferee(s) or any of their principals, or any person in privity therewith, has an option to purchase all or part of the seller's retained or subsequently acquired equity interests in the station.

122. New § 73.3598 is added to Part 73, Subpart H, to read as follows:

§ 73.3598 Period of construction.

(a) *TV broadcast stations.* Each original construction permit for the construction of a new TV broadcast station, or to make changes in an existing station, shall specify a period of 18 months within which construction shall be completed and application for license filed. Permittees for new TV stations shall file a report in the ninth month after the grant of the construction permit setting forth the progress made toward building the station. Such progress report shall be signed by the principal(s) of the permittee.

(b) *Other broadcast, auxiliary and Instructional Television Fixed Stations.* Each original construction permit for the construction of a new AM, FM, International broadcast station, TV or FM translator, FM booster, broadcast auxiliary or Instructional Television

Fixed Station (ITFS), or to make changes in such existing stations, shall specify a period of 12 months within which construction shall be completed and application for license be filed.

123. New § 73.3599 is added to Part 73, Subpart H, to read as follows:

§ 73.3599 Forfeiture of construction permit.

A construction permit shall be automatically forfeited if the station is not ready for operation within the time specified therein or within such further time as the FCC may have allowed for completion, and a notation of the forfeiture of any construction permit under this provision will be placed in the records of the FCC as of the expiration date.

124. New § 73.3601 is added to Part 73, Subpart H, to read as follows:

§ 73.3601 Simultaneous modification and renewal of license.

When an application is granted by the FCC necessitating the issuance of a modified license less than 60 days prior to the expiration date of the license sought to be modified, and an application for renewal of the license is granted subsequent or prior thereto (but within 30 days of expiration of the present license), the modified license as well as the renewal license shall be issued to conform to the combined action of the FCC.

125. New § 73.3603 is added to Part 73, Subpart H, to read as follows:

§ 73.3603 Special waiver procedure relative to applications.

(a) In the case of any broadcast applications designated for hearing, the parties may request the FCC to grant or deny an application upon the basis of the information contained in the applications and other papers specified in paragraph (b) of this section without the presentation of oral testimony. Any party desiring to follow this procedure should execute and file with the FCC a waiver in accordance with paragraph (e) of this section, and serve copies on all other parties, or a joint waiver may be filed by all the parties. Upon the receipt of waivers from all parties to a proceeding, the FCC will decide whether the case is an appropriate one for determination without the presentation of oral testimony. If it is determined by the FCC that, notwithstanding the waivers, the presentation of oral testimony is necessary, the parties will be so notified and the case will be retained on the hearing docket. If the FCC concludes that the case can appropriately be decided without the presentation of oral testimony, the record will be considered as closed as of the date the waivers of all the parties were first on file with the FCC.

(b) In all cases considered in accordance with this procedure, the FCC will decide the case on the basis of the information contained in the applications and in any other papers pertaining to the applicants or applications which are open to public inspection and which were on file with the FCC when the record was closed. The FCC may call upon any party to furnish any additional information which the FCC deems necessary to a proper decision. Such information shall be served upon all parties. The waiver previously executed by the parties shall be considered in effect unless within 10 days of the service of such information the waiver is withdrawn.

(c) Any decision by the FCC rendered pursuant to this section will be in the nature of a final decision, unless otherwise ordered by the FCC.

(d) By agreeing to the waiver procedure prescribed in this section, no party shall be deemed to waive the right to petition for reconsideration or rehearing, or to appeal to the courts from any adverse final decision of the FCC.

(e) The waiver provided for by this section shall be in the following form:

Waiver

Name of applicant.....
Call letters.....
Docket No.....

The undersigned hereby requests the FCC to consider its application and grant or deny it in accordance with the procedure prescribed in § 73.3603 of the FCC's rules and regulations. It is understood that all the terms and provisions of ———— are incorporated in this waiver.

126. New § 73.3605 is added to Part 73, Subpart H, to read as follows:

§ 73.3605 Retention of applications in hearing status after designation for hearing.

(a) After an application for a broadcast facility is designated for hearing, it will be retained in hearing status upon the dismissal or amendment and removal from hearing of any other application or applications with which it has been consolidated for hearing.

(b) Where any applicants for a broadcast facility file a request pursuant to § 73.3525(a) for approval of an agreement to remove a conflict between their applications, the applications will be retained in hearing status pending such proceedings on the joint request as may be ordered and such action thereon as may be taken.

(1) If further hearing is not required on issues other than those arising out of the agreement, the proceeding shall be terminated and appropriate disposition shall be made of the applications.

(2) Where further hearing is required on issues unrelated to the agreement, the presiding officer shall continue to conduct the hearing on such other issues pending final action on the agreement, but the record in the proceeding shall not be closed until such final action on the agreement has been taken.

(3) In any case where a conflict between applications will be removed by an agreement for an engineering amendment to an application, the amended application shall be removed from hearing status upon final approval of the agreement and acceptance of the amendment.

(c) An application for a broadcast facility which has been designated for hearing and which is amended so as to eliminate the need for hearing or further hearing on the issues specified, other than as provided for in paragraph (b) of this section, will be removed from hearing status.

127. A new undesignated headnote, FILING OF REPORTS AND CONTRACTS, is added to Part 73, Subpart H, immediately preceding § 73.3610, TV programming report.

Filing of Reports and Contracts

128. New § 73.3610 is added to Part 73, Subpart H, to read as follows:

§ 73.3610 TV programming report.

Each licensee or permittee of a commercially operated TV station shall file an annual programming report with the FCC on or before February 1 of each year on FCC Form 303–A.

129. New § 73.3611 is added to Part 73, Subpart H, to read as follows:

§ 73.3611 Financial report.

Each licensee or permittee of a commercially operated AM, FM, TV, or International broadcast station shall file an annual financial report with the FCC on or before April 1 of each year on FCC Form 324.

130. New § 73.3612 is added to Part 73, Subpart H, to read as follows:

§ 73.3612 Annual employment report.

Each licensee or permittee of a commercially or noncommercially operated AM, FM, TV or International broadcast station with five or more fulltime employees shall file an annual employment report with the FCC on or before May 31 of each year on FCC Form 395.

131. New § 73.3613 is added to Part 73, Subpart H, to read as follows:

§ 73.3613 Filing of contracts.

Each licensee or permittee of a commercial or noncommercial AM, FM, TV or International broadcast station shall file with the FCC copies of the following contracts, instruments, and documents together with amendments, supplements, and cancellations (with the substance of oral contracts reported in writing), within 30 days of execution thereof:

(a) Network service: Network affiliation contracts between stations and networks will be reduced to writing and filed as follows:

(1) All network affiliation contracts, agreements or understandings between a TV station and a national, regional or other network.

(2) All network affiliation contracts, agreements or understandings between a commercial AM or FM station and a network as defined in §§ 73.132 and 73.232, where the network normally furnishes programming to affiliated stations at least 5 days each week during 8 months or more of the year.

(3) Each such filing on or after May 1, 1969, initially shall consist of a written instrument containing all of the terms and conditions of such contract, agreement or understanding without reference to any other paper or document by incorporation or otherwise. Subsequent filings may simply set forth renewal, amendment or change, as the case may be, of a particular contract previously filed in accordance herewith.

(4) The FCC shall also be notified of the cancellation or termination of network affiliations, contracts for which are required to be filed by this section.

(5) Transcription agreements or contracts for the supplying of videotape recordings and film for TV stations which specify option time must be filed.

(6) This section does not require the filing of transcription agreements or contracts for the supplying of videotape recordings and film for TV stations which do not specify option time, nor contracts granting the right to broadcast music such as ASCAP, BMI or SESAC agreements.

(b) Ownership or control: Contracts, instruments or documents relating to the present or future ownership or control of the licensee or permittee or of the licensee's or permittee's stock, rights or interests therein, or relating to changes in such ownership or control shall include but are not limited to the following:

(1) Articles of partnership, association, and incorporation, and changes in such instruments;

(2) Bylaws, and any instruments effecting changes in such bylaws;

(3) Any agreement, document or instrument providing for the assignment of a license or permit, or affecting, directly or indirectly, the ownership or voting rights of the licensee's or permittee's stock (common or preferred, voting or nonvoting), such as:

(i) Agreements for transfer of stock;

(ii) Instruments for the issuance of new stock; or

(iii) Agreements for the acquisition of licensee's or permittee's stock by the issuing licensee or permittee corporation. Pledges, trust agreements, options to purchase stock and other executory agreements are required to be filed. However, trust agreements or abstracts thereof are not required to be filed, unless requested specifically by the FCC. Should the FCC request an abstract of the trust agreement in lieu of the trust agreement, the licensee or permittee will submit the following information concerning the trust:

(A) Name of trust;

(B) Duration of trust;

(C) Number of shares of stock owned;

(D) Name of beneficial owner of stock;

(E) Name of record owner of stock;

(F) Name of the party or parties who have the power to vote or control the vote of the shares; and

(G) Any conditions on the powers of voting the stock or any unusual characteristics of the trust.

(4) Proxies with respect to the licensee's or permittee's stock running for a period in excess of 1 year, and all proxies, whether or not running for a period of 1 year, given without full and detailed instructions binding the nominee to act in a specified manner. With respect to proxies given without full and detailed instructions, a statement showing the number of such proxies, by whom given and received, and the percentage of outstanding stock represented by each proxy shall be submitted by the licensee or permittee within 30 days after the stockholders' meeting in which the stock covered by such proxies has been voted. However, when the licensee or permittee is a corporation having more than 50 stockholders, such complete information need be filed only with respect to proxies given by stockholders who are officers or directors, or who have 1% or more of the corporation's voting stock. When the licensee or permittee is a corporation having more than 50 stockholders and the stockholders giving the proxies are not officers or directors or do not hold 1% or more of the corporation's stock, the only information required to be filed is the name of any person voting 1% or more of the stock by proxy, the number of shares voted by proxy by such person, and the total number of shares voted at the particular stockholders' meeting in which the shares were voted by proxy.

(5) Mortgage or loan agreements containing provisions restricting the licensee's or permittee's freedom of operation, such as those affecting voting rights, specifying or limiting the amount of dividends payable, the purchase of new equipment, or the maintenance of current assets.

(6) Any agreement reflecting a change in the officers, directors or stockholders of a corporation, other than the licensee or permittee, having an interest, direct or indirect, in the licensee or permittee as specified by § 73.3615.

(c) Personnel: (1) Management consultant agreements with independent contractors; contracts relating to the utilization in a management capacity of any person other than an officer, director, or regular employee of the licensee or permittee; station management contracts with any persons, whether or not officers, directors, or regular employees, which provide for both a percentage of profits and a sharing in losses; or any similar agreements.

(2) The following contracts, agreements, or understandings need not be filed: Agreements with persons regularly employed as general or station managers or salesmen; contracts with program managers or program personnel; contracts with attorneys, accountants or consulting radio engineers; contracts with performers; contracts with station representatives; contracts with labor unions; or any similar agreements.

(d) The following contracts, agreements, or understandings need not be filed, but shall be kept at the station and made available for inspection upon request by the FCC: Contracts relating to the sale of broadcast time to "time brokers" for resale; subchannel leasing agreements for Subsidiary Communications Authorization operation; time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs, and special events) broadcast pursuant to the contract is not under control of the station; and contracts with chief operators and other engineering personnel.

132. New § 73.3615 is added to Part 73, Subpart H, to read as follows:

§ 73.3615 Ownership reports.

(a) Each licensee of a commercial AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323 at the time the application for renewal of station license is required to be filed. Licensees owning more than one AM, FM or TV station need file only one Ownership Report at 3-year intervals. Ownership Reports shall give the following information as of a date not more than 30 days prior to the filing of the Ownership Report:

(1) In the case of an individual, the name of such individual;

(2) In the case of a partnership, the names of the partners and the interest of each partner;

(i) Any change in partners or in their rights will require prior consent of the FCC upon an application for consent to assignment of license or permit. If such change involves less than a controlling interest, the application for FCC consent to such changes may be made upon FCC Form 316.

(3) In the case of a corporation, association, trust, estate, or receivership, the data applicable to each:

(i) The name, residence, citizenship, and stock holdings of officers, directors, stockholders, trustees, executors, administrators, receivers, and members of any association;

(ii) Full information as to family relationship or business association between two or more officials and/or stockholders, trustees, executors, administrators, receivers, and members of any association;

(iii) Capitalization with a description of the classes and voting power of stock authorized by the corporate charter or other appropriate legal instrument and the number of shares of each class issued and outstanding; and

(iv) Full information on FCC Form 323 with respect to the interest and identity of any person having any direct, indirect, fiduciary, or beneficiary interest in the licensee or any of its stock. For example:

(A) Where A is the beneficial owner or votes stock held by B, the same information should be furnished for A as is required for B.

(B) Where X corporation controls the licensee, or holds 25% or more of the number of issued and outstanding shares of either voting or non-voting stock of the licensee, the same information should be furnished with respect to X corporation (its capitalization, officers, directors, and stockholders and the amount of stock [by class] in X held by each) as is required in the case of the licensee, together with full information as to the identity and citizenship of the person authorized to vote licensee's stock, in case of voting stock.

(C) The same information should be furnished as to Y corporation if it controls X corporation or holds 25% or more of the number of issued and outstanding shares of either voting or non-voting stock of X, and as to Z corporation if it controls Y corporation or holds 25% or more of the number of issued and outstanding shares of either voting or non-voting stock of Y and so on back to natural persons.

(4) In the case of all licensees:

(i) A list of all contracts still in effect required to be filed with the FCC by § 73.3613 showing the date of execution and expiration of each contract; and

(ii) Any interest which the licensee may have in any other broadcast station.

(b) Each permittee of a commercial AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323 within 30 days of the date of grant by the FCC of an application for original construction permit. The Ownership Report of the permittee shall give the information required by the applicable portions of paragraph (a) of this section.

(c) Except as provided in paragraph (d) of this section, a supplemental Ownership Report on FCC Form 323 shall be filed by each licensee or permittee within 30 days after any change occurs in the information required by the Ownership Report from that previously reported. Such report shall include without limitation:

(1) Any change in capitalization or organization;

(2) Any change in officers and directors;

(3) Any transaction affecting the ownership, direct or indirect, or voting rights of licensee's or permittee's stock, such as:

(i) A transfer of stock;

(ii) Issuance of new stock or disposition of treasury stock; or

(iii) Acquisition of licensee's or permittee's stock by the issuing corporation.

(4) Any change in the officers, directors, or stockholders of a corporation other than the licensee or permittee such as X, Y, or Z corporation described in the example in paragraph (a)(3)(iv) of this section.

(5) Before any change is made in the organization, capitalization, officers, directors, or stockholders of a corporation other than licensee or permittee, which results in a change in the control of the licensee or permittee, prior FCC consent must be received under § 73.3540. A transfer of control takes place when an individual or group in privity, gains or loses affirmative or negative (50%) control. See instructions on FCC Form 323 (Ownership Report).

(d) Annual reporting and 1 percent benchmark exceptions:

(1) Where information is required under paragraphs (a) or (b) of this section with respect to a corporation or association having more than 50 stockholders or members, such information must be filed annually as set forth in paragraph (d)(2) of this section and only with respect to stockholders or members who are officers or directors of the corporation or association, or to other stockholders or members who have 1% or more of either the voting or non-voting stock of the corporation or voting rights in the association. Such information with respect to stock held by stockbrokers need be filed only if the stock is held by the stockbroker in its name (either for itself or for customers) for a period exceeding 30 days.

(2) Filings must be made on a recurring annual basis, within 60 days from the anniversary of the record date selected in the first annual report for stockholdings.

(3) Corporations covered in this paragraph do not have to file supplemental Ownership Reports as described in paragraph (c) of this section.

(e) Each licensee of a noncommercial educational AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323–E at the time the application for renewal of station license is required to be filed. Licensees owning more than one noncommercial educational AM, FM or TV broadcast station need file only one Ownership Report at 3-year intervals. Ownership Reports shall give the following information as of a date not more than 30 days prior to the filing of the Ownership Report:

(1) The following information as to all officers, members of governing board, and holders of 1% or more ownership interest (if any): Name, residence, office held, citizenship, principal profession or occupation, and by whom appointed or elected.

(2) Full information with respect to the interest and identity of any individual, organization, corporation, association, or any other entity which has direct or indirect control over the licensee or permittee.

(3) A list of all contracts still in effect required by § 73.3613 to be filed with the FCC, showing the date of execution and expiration of each contract.

(4) Any interest which the licensee or permittee or any of its officers, members of the governing board, and holders of 1% or more ownership interest (if any) held in any other broadcast station.

(f) Each permittee of a noncommercial educational AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323–E within 30 days of the date of grant by the FCC of an application for original construction permit. The Ownership Report of the permittee shall give the information required by the applicable portions of paragraph (e) of this section.

(g) A supplemental Ownership Report on FCC Form 323–E shall be filed by each licensee or permittee within 30 days after any change occurs in the information required by the Ownership Report from that previously reported. Such report should include, without limitation:

(1) Any change in organization;

(2) Any change in officers or directors;

(3) Any transaction affecting the ownership (direct or indirect) or voting rights with respect to the licensee or permittee (or with respect to any stock interest therein).

(h) A copy of all ownership and supplemental ownership reports and related material filed pursuant to this section shall be maintained and made available for public inspection locally as required by §§ 73.3526 and 73.3527.

Appendix B

1. Part 73 is amended with the following revised "Alphabetical Index of Rules Titles—Part 73." This Index contains all rule revisions adopted in Reregulation Order FCC 79–371.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 396

[BMCS Docket No. MC-48: Amendment No. 78-7]

Federal Motor Carrier Safety Regulations; Inspection, Repair, and Maintenance

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the Federal Motor Carrier Safety Regulations (FMCSR) and is intended to clarify and strengthen Part 396, Inspection and Maintenance Requirements. More adequate inspection and maintenance procedures will mitigate commercial vehicle defects and defect-related accidents.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Donnell W. Morrison, Chief, Vehicle Requirements Branch, Bureau of Motor Carrier Safety, (202-426-1700); Principal Lawyer: Mrs. Kathleen Markman, Office of Chief Counsel, (202-426-0824), Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Office hours are 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The present inspection and maintenance requirements have been in the FMCSR, with minor revisions, since the 1952 general revision of the regulations. This rule has been developed in part as a response to petitions filed by the Professional Drivers Council (PROD) and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers (IBT) and because of a longstanding concern of the Federal Highway Administration's (FHWA) Bureau of Motor Carrier Safety. BMCS). Other important factors included:

1. Numerous complaints from commercial vehicle drivers about inadequate levels of maintenance and unsafe maintenance practices by their employers.

2. Vehicle defect-related accidents reported under the requirements of 49 CFR 394.

3. Specific accidents investigated by BMCS and the National Transportation Safety Board (NTSB).

4. Frequency of vehicle defects found during unannounced roadside inspections of vehicles by Federal Motor Carrier Safety Investigators (49 CFR 396.5).

On March 16, 1973, an Advance Notice of Proposed Rulemaking (ANPRM) was published in the **Federal Register** (38 FR 7127) inviting comments on eight specific questions for improved inspection and maintenance procedures, including pre-trip and post-trip inspections. Over 80 responses were received from many segments of the trucking industry. The responses expressed strong views on the issue, but only a limited amount of new data or facts was submitted. As a result, further study of the problem was desirable and a research contract with the University of Michigan's Highway Safety Research Institute (HSRI) was undertaken. The HSRI final report "Effect of Commercial Vehicle Systematic Preventive Maintenance on Specific Causes of Accidents"[1] identified a definite relationship between accident frequency and the degree to which preventive maintenance was performed.

The report also contained several conclusions and recommendations intended to reduce highway accidents caused by vehicle mechanical defects. As a result, a Notice of Proposed Rulemaking (NPRM) setting forth changes to Part 396 was published in the **Federal Register** (42 FR 18103) on April 5, 1977. Responses to the NPRM were received from 38 motor carriers, 27 drivers, 12 associations, 5 labor organizations, 2 governmental agencies, and 6 others whose classification could not be determined.

There were 49 responses in favor of the proposed amendment, 36 opposed it entirely, and 4 commented that the proposal either did not go far enough or should exempt certain vehicles. Of the 38 motor carriers who responded to the NPRM, 10 supported the proposal, except for the written pre-trip inspection requirement. Those in opposition stated that the present requirements, if enforced, would result in better vehicle inspection and maintenance and, therefore, increased safety of operation of commercial vehicles. The responses from the various groups will be discussed separately.

In general, the drivers who responded to the NPRM supported the proposal. Some stated that the proposal did not go far enough, but made no suggestions as to how the requirements should be changed.

One driver was opposed to the responsibility of a pre-trip safety check being placed on road drivers. The reason given was that drivers were not paid to check their vehicles and until this was done no one would perform a safety check.

Several of the drivers suggested a front axle weight limitation of 10,000 pounds. This suggestion was considered, however, such a requirement goes beyond the scope of this rulemaking docket.

The NTSB commented that the proposal would be of no benefit in assuring that leased vehicles would be properly inspected and maintained. This agency further commented that since the proposed revision still makes the controlling carrier responsible for inspection and maintenance, lessors may not report mechanical defects and unsafe vehicles would still be operated on the highway. Their concern is noted

[1] Available from the U.S. Department of Commerce, National Technical Information Service, Springfield, Va. 22151, Accession No. PB-248379, paper copy price $7.25.

but our authority is limited to the operating motor carrier as the principal responsible party.

The Department of California Highway Patrol recommended a daily inspection requirement for emergency doors and their marking lights on buses. No data was submitted to support a requirement for testing an emergency door every day. Available evidence indicates that a 90-day periodic inspection is adequate to ensure the safety of operation of bus emergency doors.

The six respondents who fall into the "other" category all supported the proposed amendment. In general, the respondents either worked with commercial motor vehicles or were familiar with motor carrier operations and supported increased inspection and maintenance.

The IBT generally supported the proposed amendment and identified the critical items as the written pre- and post-trip inspection reports and the requirement for certified copies of these reports to be carried on the vehicle. Their views were shared by other organizations representing labor.

One bus driver organization recommended that Part 396 be amended to be similar to the Federal Air Regulations for air carriers. These regulations require an organization chart and manual showing every step in maintenance practices and the organizational setup. Also, it was recommended that motor carriers have mechanics certified as are aircraft and engine mechanics.

These recommendations were studied but are not considered feasible for the motor carrier industry. Aircraft are certified by the Federal Aviation Administration according to type and when certification is received all future aircraft of the same type are covered. The number and type of aircraft are few when compared to the number and type of motor vehicles used in highway transportation in interstate or foreign commerce.

The PROD commented that the proposed rules increased the safety responsibility of drivers and, in some cases, reduced the inspection and maintenance responsibility of motor carriers.

The PROD's comments dealt with the following specific items:

1. *Parts and Accessories*—The PROD stated the addition of five major vehicle components to be kept in "safe operating condition" was a step in the right direction. However, unless specific condition requirements were specified, the rule would be unenforceable.

These comments have merit but are beyond the scope of the NPRM. Consideration will be given to proposing specific condition requirements for these major vehicle components in a future rulemaking action.

2. *Inspection*—The PROD stated that the FMCSR have been weakened by the deletion of the recommended inspection forms and checklist from Sections 396.7 and 396.9. Recommended forms or checklists may result in better inspection and maintenance. However, a specific form or checklist developed by BMCS may not be the best to meet the varying requirements of the many types of operations. It is for this reason that the recommended forms were deleted from the proposed regulations. But PROD's comments do have merit, and the BMCS will further study this matter with a view toward updating the recommended maintenance practices and forms. These will be proposed for incorporation in the regulations at a later date.

The PROD also stated that the regulations were weakened by deleting the requirement for carriers to provide a means to indicate the nature and due date of various inspection and maintenance operations. A mandatory 20–30,000-mile or 2-month (whichever comes first) inspection schedule for vehicles was recommended.

The fact that the proposed rule allows flexibility in adapting the requirements to specific operations does not necessarily weaken the requirement. The proposed amendments would require motor carriers to systematically inspect, maintain, and repair their motor vehicles. A program or timetable for each vehicle would be necessary to meet this requirement. The BMCS agrees with PROD that a mandatory inspection schedule could enhance safety of operation. However, since a specific schedule was not part of the proposed rule, it will have to be included in a new rulemaking initiative, if it is deemed practical.

The PROD also commented that the NPRM did not propose requiring vehicle maintenance records to be transferred if a vehicle is sold. There is no data to support that this would increase safety, and, in any event, a motor carrier is required to assure that motor vehicles are safe to operate before they are put in service. Furthermore, a motor vehicle may be sold or traded by a motor carrier and not be returned to service subject to the FHWA's safety jurisdiction. In such a case, there would be no authority to require retention of records so transferred.

3. *Enforcement and Education*—With respect to these subjects, PROD stated that the FMCSR should require motor carriers to know all the requirements of Parts 393 and 396 and to certify that their vehicles are roadworthy. There is no data to support the concept of continuous certification.

The fact that Part 393 specifies a motor vehicle has to have certain parts and accessories in safe operating condition does not mean a particular employee has to be familiar with all the specifics of all the requirements.

A mechanic, for example, could be knowledgeable in brake repair without knowing the regulatory requirement concerning towbars and pintle hooks.

It is agreed that motor carriers should have qualified mechanics. Many carriers do have such mechanics and do continue to train and improve the quality of work performed by them.

One concept PROD mentions is that carriers should have *certified inspectors* (emphasis supplied) who are familiar with the FMCSR. This concept may ensure that vehicles are inspected properly, but it does not mean they will be repaired properly. Many carriers have personnel who only inspect vehicles but do no repair work. Therefore, the proposal made by PROD to have certified inspectors would not necessarily resolve the problem of inadequate maintenance. Motor carriers are in the best position to determine the quality of personnel inspecting and working on their vehicles, and competition in the marketplace is an incentive to have qualified mechanics. For these reasons, certified inspectors or mechanics are not being required at this time.

Motor carriers who responded to the NPRM stated that a written pre-trip inspection would unnecessarily increase the cost of their operation and that maintenance personnel should be the ones to determine if a vehicle was roadworthy and ready to be dispatched. The BMCS agrees, provided there is some means of ensuring that the carrier and the driver have the means to assure the vehicle's roadworthiness. One method that can be used is a certification that the vehicle has been inspected and any defects found corrected. Such a requirement is being incorporated in the final rule.

Several of the motor carriers stated that lightweight vehicles should be exempted from the inspection and maintenance requirements. The present Part 396 only exempts lightweight motor vehicles if they are wholly engaged in transporting mail under contract with the U.S. Postal Service. In view of the

fact that lightweight vehicles which are not presently exempt from the inspection and maintenance requirements do present safety risks, we see no reason to expand the exemption at this time.

The responding motor carrier associations were generally opposed to the proposed amendment to Part 396, except for one. The American Bus Association (formerly National Association of Motor Bus Owners) supported the proposal, except the proposed pre-post trip inspection requirements and the 30-day retention of these records on the vehicle.

The Steel Carrier Conference (SCC) of the American Trucking Associations, Inc., and the Private Truck Council of America, Inc., submitted detailed comments on various sections of the proposed Part 396. The comments on the various sections will be discussed in the order found in the regulations.

The above two associations commented that Section 396.3 should be clarified to indicate where maintenance records should be kept and that the term "non-owned" should be more carefully defined. The suggestion to allow records to be kept where the vehicle is housed or maintained and use of the term "lessor if not owned by the motor carrier" has merit and the recommendations have been incorporated in the final rule.

The suggestion that tire records are not needed has been carefully studied. Tire size has a direct bearing on the load-carrying capacity of a vehicle, but ply rating or load rating may not be needed. The load or ply rating will be dropped, but size of tires will be retained.

The SCC commented on the terms "condition" and "in an unsafe condition" in § 396.7 (a) and (b). They stated that the terms should refer to the "out of service" requirements of § 396.9. A vehicle's condition can change during operation over the highway making the safety of the vehicle questionable, but not necessarily out of service. For example, a vehicle's engine could develop a condition that reduces power. The vehicle could continue at reduced speed and be less of a hazard than if it stopped on the highway. The proposed sections have been rewritten to clarify the intent.

Section 396.9 has been reworded to take care of several editorial comments submitted.

The SCC recommended that the out-of-service criteria be published or made available to the public. Publishing the out-of-service requirements as a part of the regulations could be used as the level to which vehicles would be maintained by a motor carrier. This would not be in the best interest of the motor carrier industry or the public. The SCC recommendation, therefore, will not be adopted.

The requirements in § 396.13 pertaining to vehicle condition reports received the most comments. Drivers and organizations representing them were in favor of the proposal to require written pre- and post-trip inspection reports. Motor carriers and motor carrier associations did not object to the continued requirement of a written post-trip inspection report, but they were opposed to the proposed written pre-trip inspection report.

The responses in favor of a written pre-trip inspection report indicated:

1. That it would give drivers a voice in saying whether a vehicle was ready to be driven over the highway;

2. That a motor carrier would have to repair any item written up on a pre-trip report before the vehicle was dispatched; and

3. That it would result in safer vehicles operated over the highways.

Motor carriers and the motor carrier associations had the opposite viewpoint about written pre-trip inspection reports. These groups were of the opinion that very little would be gained in the way of safety by a written pre-trip inspection report and that the only thing that would be accomplished would be another report and added cost. They were also of the opinion that drivers would not make pre-trip inspections unless they were paid for the time.

Another objection voiced by the responding motor carriers and their associations was the provision that a copy of the pre- and post-trip inspection reports be carried on the vehicle for at least 30 days. They stated that this requirement was not practical. The SCC pointed out that in the case of doubles it would be difficult to find a placed to store 30 days worth of inspection reports because there could possibly be eight each day, two each for the tractor, semitrailer, dolly, and the rear trailer.

Also, the SCC stated that it was highly improbable that a driver would go through 30 days' records prior to starting each day's operation. The SCC also stated that § 396.13(b) and (c) place requirements on the motor carrier and not the driver. As a result, carriers could be place in violation of the regulations by a driver not performing his responsibility and not be aware of it.

The SCC also commented that § 396.13(c) would require carriers to keep the vehicle condition reports for 1 year, while the present requirement is 90 days.

The comments of both labor and management have merit. We can understand the drivers wanting assurance that they will be driving a safe vehicle. Also, we recognize the motor carriers' viewpoint that some items listed on the vehicle condition report by drivers may not necessarily affect safety of operation.

After careful review of the comments submitted, it is agreed that both a written pre-trip and post-trip inspection report may not be necessary, provided there is a mechanism that assures that safety-related defects are properly corrected and that the motor vehicle is in a safe operating condition prior to being dispatched. The regulations, therefore, have been revised to require a driver to prepare a daily written inspection report listing any safety-related defects discovered or reported to him for every vehicle operated each day. It also requires motor carriers to correct all safety-related defects and to certify on the written inspection report prepared by the driver that these defects have been corrected or that no correction is necessary. A legible copy of the vehicle inspection report is being required to be carried on the power unit. Drivers need to know what defects have been reported and the action taken by the motor carrier to correct these defects. The regulations presently contain a requirement in § 392.7 for drivers to satisfy themselves that certain parts and accessories are in good working order. In order to ensure that a driver will review the written inspection report prior to driving the vehicle, the regulations have been revised to require a driver to sign the report to acknowledge that the review has taken place. It will not be necessary to require the inspection report to be carried on the power unit for as long as 30 days. While drivers need to know what defects have been reported, and what corrective action was taken by the motor carrier, this can be accomplished by the requirement that a copy of the last vehicle inspection report be carried on the power unit. This will provide a driver with the necessary information for assuring himself that any reported safety related defects have been corrected. It will also greatly reduce the number of report(s) to be carried on the vehicle. The Final Rule contains such a requirement.

The carriers and the associations also commented that the current exemption from post-trip inspection requirements for lightweight vehicles was not present in § 396.13. The exemption has been

included in the final regulation. Also, the present 90-day retention period for post-trip inspection reports and certification of repairs has been maintained.

In the continuing effort to reduce the paperwork and retention burden imposed by the safety regulations, the time period for retaining the inspection and maintenance records is being reduced from the current 3-year requirement to 1 year. Once the vehicle leaves the service of the carrier, the records need only be maintained for 6 months. Vehicles operated by motor carriers under a lease or rental agreement for a period of less than 30 days need only be inspected and all safety-related defects corrected before they are placed in service. Additionally, the exemption for motor carriers operating only one (1) motor vehicle has been retained.

In consideration of the foregoing, 49 CFR 396 is revised as follows:

1. 49 CFR Part 396 is revised to read as follows:

PART 396—INSPECTION, REPAIR, AND MAINTENANCE

Sec.

396.1 Scope
396.3 Inspection, Repair, and Maintenance
396.5 Lubrication
396.7 Unsafe Operations Forbidden
396.9 Inspection of Vehicles in Operation
396.11 Driver Vehicle Inspection Report(s)
396.13 Driver Inspection
396.15 Driveaway-Towaway Operation, Inspections

Authority: Section 204, 49 Stat. 546, as amended, (49 U.S.C. 304), Section 6, Pub. L. 89-670, 80 Stat. 937 (49 U.S.C. 1655); 49 CFR 1.48; 49 CFR 301.60).

§ 396.1 Scope.

(a) *General*—Every motor carrier, its officers, drivers, agents, representatives, and employees directly concerned with the inspection or maintenance of motor vehicles shall comply and be conversant with the rules of this part.

(b) *Exemption.*—(1) *Intracity operations*—The rules in this part do not apply to a driver or vehicle wholly engaged in exempt intracity operations as defined in Section 390.16 of this subchapter.

(2) *Lightweight mail trucks*—The rules in this part do not apply to a motor carrier or driver engaged in transporting mail under contract with the U.S. Postal Service in motor vehicles having a manufacturer's gross vehicle weight rating of 4,535 kg (10,000 pounds) or less.

§ 396.3 Inspection, repair, and maintenance.

(a) *General*—Every motor carrier shall systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all motor vehicles subject to its control.

(1) Parts and accessories shall be in safe and proper operating condition at all times. These include those specified in Part 393 of this subchapter and any additional parts and accessories which may affect safety of operation, including but not limited to, frame and frame assemblies, suspension systems, axles and attaching parts, wheels and rims, and steering systems.

(2) Pushout windows, emergency doors, and emergency door marking lights in buses shall be inspected at least every 90 days.

(b) *Required records*—For vehicles controlled for 30 consecutive days or more, the motor carriers shall maintain, or cause to be maintained, the following records for each vehicle:

(1) An identification of the vehicle including company number, if so marked, make, serial number, year, and tire size. In addition, if the motor vehicle is not owned by the motor carrier, the record shall identify the name of the person furnishing the vehicle;

(2) A means to indicate the nature and due date of the various inspection and maintenance operations to be performed;

(3) A record of inspection, repairs, and maintenance indicating their date and nature;

(4) A lubrication record; and

(5) A record of tests conducted on pushout windows, emergency doors, and emergency door marking lights on buses.

(c) *Records for vehicles leased less than 30 days*—For vehicles controlled by a motor carrier for less than 30 days, the motor carrier shall, before taking possession of the vehicle, inspect the vehicle in order to ensure that the vehicle complies with Part 393 and all parts and accessories necessary for safe operations are in good operating condition. The person making the inspection shall certify the results of the inspection.

(d) *Record retention*—The records required by this section shall be retained where the vehicle is either housed or maintained for a period of 1 year and for 6 months after the motor vehicle leaves the motor carrier's control.

§ 396.5 Lubrication.

Every motor carrier shall ensure that each motor vehicle subject to its control is—

(a) properly lubricated; and

(b) free of oil and grease leaks.

§ 396.7 Unsafe operations forbidden.

(a) *General*—A motor vehicle shall not be operated in such a condition as to likely cause an accident or a breakdown of the vehicle.

(b) *Exemption*—Any motor vehicle discovered to be in an unsafe condition while being operated on the highway may be continued in operation only to the nearest place where repairs can safely be effected. Such operation shall be conducted only if it is less hazardous to the public than to permit the vehicle to remain on the highway.

§ 396.9 Inspection of motor vehicles in operation.

(a) *Personnel authorized to perform inspections*—Every special agent of the FHWA (as defined in Appendix B to this subchapter) is authorized to enter upon and perform inspections of motor carrier's vehicles in operation.

(b) *Prescribed inspection report*—The Driver-Equipment Compliance Check shall be used to record results of motor vehicle inspections conducted by authorized FHWA personnel.

(c) *Motor vehicles declared "out of service."*

(1) Authorized personnel shall declare and mark "out of service" any motor vehicle which by reason of its mechanical condition or loading would likely cause an accident or a breakdown. An "Out of Service Vehicle" sticker shall be used to mark vehicles "out of service."

(2) No motor carrier shall require or permit any person to operate nor shall any person operate any motor vehicle declared and marked "out of service" until all repairs required by the "out of service notice" have been satisfactorily completed. The term "operate" as used in this section shall include towing the vehicle, except that vehicles marked "out of service" may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of an emergency towing vehicle and an "out of service" vehicle shall not be operated unless such combination meets the performance requirements of this subchapter except for those conditions noted on the Driver Equipment Compliance Check.

(3) No person shall remove the "Out of Service Vehicle" sticker from any motor vehicle prior to completion of all repairs required by the "out of service notice".

(4) The person completing the repairs required by the "out of service notice" shall sign the "Certification of Repairman" in accordance with the terms prescribed, entering the name of the shop or garage and the date and time the repairs were completed. If the driver

completes the repairs, the driver shall sign and complete the "Certification of Repairman."

(d) *Motor carrier disposition.*

(1) The driver of any motor vehicle receiving an inspection report shall deliver it to the motor carrier operating the vehicle upon his arrival at the next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the motor carrier operating the vehicle within 24 hours, the driver shall immediately mail the report to the motor carrier.

(2) Motor carriers shall examine the report. Violations or defects noted thereon shall be corrected.

(3) Within 15 days following the date of the inspection, the motor carrier shall—

(i) Complete the "Motor Carrier Certification of Action Taken" in accordance with the terms prescribed thereon; and

(ii) Return the completed Form MCS–63 to the BMCS office at the address indicated on the report.

§ 396.11 Driver vehicle inspection report(s).

(a) *Report required*—Every motor carrier shall require its drivers to report, and every driver shall prepare a report in writing at the completion of each day's work on each vehicle operated and the report shall cover at least the following parts and accessories:

—Service brakes including trailer brake connections
—Parking (hand) brake
—Steering mechanism
—Lighting devices and reflectors
—Tires
—Horn
—Windshield wipers
—Rear vision mirrors
—Coupling devices
—Wheels and rims
—Emergency equipment

(b) *Report content*—The report shall identify the motor vehicle and list any defect or deficiency discovered by or reported to the driver which would affect safety of operation of the motor vehicle or result in its mechanical breakdown. If no defect or deficiency is discovered by or reported to the driver, the report(s) shall so indicate. In all instances, the driver shal sign the vehicle inspection report. On two-driver operations, only one driver needs to sign the report, provided both drivers agree as to the defects or deficiencies. If a driver operates more than one vehicle during the day, a report shall be prepared for each vehicle operated.

(c) *Corrective action*—Prior to operating a motor vehicle, motor carriers or their agent(s) shall effect repair of any items listed on the vehicle inspection report(s) that would be likely to affect the safety of operation of the vehicle.

(1) Motor carriers or their agent(s) shall certify on the report(s) which lists any defect(s) or deficiency(s) that the defect(s) or deficiency(s) has been corrected or that correction is unnecessary before the vehicle is again dispatched.

(2) Motor Carriers shall retain the original copy of each vehicle inspection report and the certification of repairs for at least 3 months from the date the report was prepared.

(3) A legible copy of the last vehicle inspection report, certified if required, shall be carried on the power unit.

(d) Exemption—The rules in this section shall not apply to lightweight motor vehicles, to driveaway-towaway operations as specified in § 396.15, or to any motor carrier operating only one (1) motor vehicle.

§ 396.13 Driver inspection.

Before driving a motor vehicle, the driver shall—

(1) Satisfy himself that the motor vehicle is in safe operating condition;

(2) Review the last vehicle inspection report required to be carried on the power unit, and;

(3) Sign the report only if it lists any safety related defect(s) or deficiency(s) to certify that the repairs have been made. This signature does not apply to listed defect(s) or deficiency(s) on a towed unit(s) which is no longer part of the vehicle combination.

§ 396.15 Driveaway-towaway operations, inspections.

(a) *General*—Every motor carrier, with respect to motor vehicles engaged in driveaway-towaway operations, shall comply with the requirements of this part. Exception: maintenance records required by § 396.3 and the vehicle inspection report required by § 396.11 of this part shall not be required for any vehicle which is part of the shipment being delivered.

(b) *Pre-trip inspection*—Before the beginning of any driveaway-towaway operation of motor vehicles in combination, the motor carrier shall make a careful inspection and test to ascertain that—

(1) The towbar or saddle-mount connections are properly secured to the towed and towing vehicle;

(2) They function adequately without cramping or binding of any of the parts; and

(3) The towed motor vehicle follows substantially in the path of the towing vehicle without whipping or swerving.

(c) *Post-trip inspection*—Motor carriers shall maintain practices to ensure that following completion of any trip in driveaway-towaway operation of motor vehicles in combination, and before they are used again, the towbars and saddle-mounts are disassembled and inspected for worn, bent, cracked, broken, or missing parts. Before reuse, suitable repair or replacement shall be made of any defective parts and the devices shall be properly reassembled.

Note: The FHWA has determined that this document does contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044.

This rulemaking is considered to be significant because its subject matter has generated substantial public interest. A Regulatory Analysis of this proposal has been prepared and placed in the public docket.

Issued on: June 27, 1979.

Howard L. Anderson,

Associate Administrator for Safety.

[FR Doc. 79–20364 Filed 6–29–79; 8:45 am]

BILLING CODE 4910–22–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1082

[Ex Parte No. 362]

Air Freight Forwarder Restrictions

AGENCY: Interstate Commerce Commission.

ACTION: Final Rule (Proposed rulemaking published at 44 FR Page 12473).

SUMMARY: The Commission has decided to delete 49 CFR 1082 because it exempted from regulation as surface freight forwarders only those air freight forwarders which were not acting as surface freight forwarders. The regulation therefore served no purpose. The Commission also stated that the charging of a fee by air freight forwarders solely for the purpose of advancing motor carrier charges did not constitute brokerage subject to regulation.

DATES: 49 CFR Part 1082 is deleted in its entirety 30 days after the service date of the Commission's order.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, Director, Bureau of Traffic, 202–275–7348.

SUPPLEMENTAL INFORMATION: By notice and order dated February 9, 1979, published in the **Federal Register** April 6, 1979 (44 FR 12473), this Commission instituted a rulemaking proceeding under 5 U.S.C. 553 and 559, 49 U.S.C. 10102, 10342, 10521, 11101, and 10321, and 49 U.S.C. 1003. The proceeding proposes to repeal the Commission's regulations governing air freight forwarder operations in interchanging freight with motor carriers, published at 49 CFR 1082.1.

Background

In 1978, the Civil Aeronautics Board (CAB) approached the Commission seeking to solve a problem which was hindering air-motor intermodal service. On shipments to or from points beyond the air carriers' terminal zones, air freight forwarders (designated as indirect air carriers by the CAB) have been advancing the charges of motor carriers [1] subject to this Commission's regulations, and assessing a small fee for this service. Arguably the charging of such a fee might violate our regulations, specifically 49 CFR 1082.1(c).

On examination of paragraph (c) of the rule, it appeared that the entirety of 49 CFR 1082.1 was unnecessary, because it largely duplicated other parts of the Act, namely 49 U.S.C. § 10921, which prohibits brokerage without a license, and § 10923, which similarly restricts surface freight forwarders. Accordingly, this rulemaking was instituted, and the public was invited to comment.

Position of the Respondents

Only three parties responded, and only two presented any comments. Stone & Webster Engineering Corporation (Stone) considers that 49 CFR 1082.1 is an exemption from the requirements of section 10923. Stone suggests that removal of the regulation will eliminate the exemption thereby bringing under Commission jurisdiction all air freight forwarders which coordinate with motor carriers in non-terminal area deliveries. Consequently, Stone wishes the regulation retained, since its removal would allegedly hinder intermodal transportation. Air Freight Motor Carriers Conference voiced similar objections. As explained below, these assumptions are incorrect.

Discussion and Conclusion

The Commission first issued the subject regulation in *Motor Transp. of Property Incidental to Air*, 95 M.C.C. 71 (1964). To understand that decision properly, it is necessary to examine *Panther Cartage Co. Extension-Air Freight*, 88 M.C.C. 37 (1961).

In the *Panther* case Emery Air Freight supported Panther Cartage Co. for operating authority to transport property incidental to movement by aircraft. Most of the area was outside of the airport terminal area. The Commission found that the motor transportation beyond Emery's terminal area was subject to regulation and not exempt under section 203(b) (7a) and that Emery's activities in arranging transportation to points beyond its terminal area constituted operations as a surface freight forwarder, subject to regulation under Part IV of the Act, for which it did not possess the appropriate authority.

In the *Incidental to Air* case, *supra*, at 89 the Commission recognized that the doctrine of *Panther* case was hindering the development of intermodal air-motor service. Accordingly, the Commission prescribed the subject regulations, which state that the arrangement of motor carrier transportation by air freight forwarder to or from points outside its terminal area would not be subject to the regulations of Part IV of the Act, provided it met three conditions: (1) the air forwarder did not assume responsibility for the freight from origin to destination; (2) its documentation reflected this fact; and (3) it received no compensation for services rendered in connection with the motor carrier shipment.

The rationale concerning forwarders in the above case was qualified by *Compass, Nippon and Transmarine-Investigation*, 344 ICC 246 (1973), in which a through, containerized, water-rail intermodal service was provided between Japan and customers in the Chicago, IL area. On arrival at the West Coast Ports, the water carriers arranged for further transportation to destination via rail. They did not receive direct compensation for this service. The Commission found that this activity amounted to surface freight forwarding, at least in part because the water carriers were being compensated indirectly.

The finding was appealed in *Japan Line, Ltd.* v. *United States*, 393 F. Supp. 131 (1975), and the court reversed the Commission's decision, stating at 136:

The definitional elements of "freight forwarder" are set forth in 49 U.S.C. 1002(a)(5) in the conjunctive, *therefore all of them must be present before freight forwarder status can be found.* The necessary elements of freight forwarder status can conveniently be classified as follows:

(1) A holding out to the general public as a common carrier (other than one subject to Part I, II or III of the Act) to transport or provide transportation of property, *for compensation*, in interstate commerce;

(2) Assembly and consolidation, or provisions therefor;

(3) Performance of break-bulk and distribution or provisions therefor;

(4) *Assumption of responsibility for the transportation from point of receipt to point of destination.*

(5) Utilization of the services of a carrier subject to Part I, II or III of the Act.

The court held that there was no compensation, since direct compensation was necessary to meet the requirement of (1). The court declined to review the Commission's decision on the other requirements.

The *Japan Line* decision makes it clear that, unless an indirect air carrier has assumed responsibility for transportation beyond the scope of the incidental-to-air exemption, it cannot be construed as performing surface freight forwarding operations, and the section 1082 exemption, by its own terms, is limited to indirect air carriers that are *not* operating as surface freight forwarders. In other words, the exemption is superfluous. When air carriers perform the operations discussed above, they are *not* acting as surface freight forwarders, and there is no need to exempt them from the freight forwarding regulations.

The other issue in this proceeding is whether the collection of a fee for the service of advancing the motor carrier's charges amounted to the services of a broker, which requires the holding of an appropriate license under 49 U.S.C. section 10921. The term "broker" is defined in section 10102 as a person other than a carrier or its employee, that provides or arranges for motor carrier transportation for compensation. When the fee collected by the air freight forwarder is solely for advancing the charges of the motor carrier, and not for the arrangement of the transportation, the service does not come under the definition of "broker", and does not appear to violate section 10921. Of course, the status of any carrier depends on what it does. Any operations in *arranging* transportation to points beyond the air freight forwarder's terminal area other than merely advancing motor carrier charges, would be broker operations for which authority should be acquired. This finding, that the advancement of charges does not

[1] Shipments by motor carriage incidental to movements by aircraft are exempt from regulation by former section 203(b)(7a) of the Act (49 U.S.C. 10526(a)(8)) when limited to the air carriers' terminal area, as defined in tariffs filed with the CAB.

constitute a violation of the act, is strictly limited to the peculiar facts presented in this rulemaking, and should not be considered as precedent under any other circumstances.

This decision does not significantly affect the quality of the human environment.

PART 1082 [DELETED]

It is Ordered:

Title 49, Chapter X of the Code of Federal Regulations is amended by the deletion of the entirety of Part 1082—Exemptions.

By the Commission, Chairman O'Neal, Commissioners Stafford, Gresham, Clapp and Christian. Vice Chairman Brown was absent and did not participate in this proceeding.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-20409 Filed 6-29-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 653

Atlantic Herring; Approval of Amendment to Fishery Management Plan, Emergency Regulations and Invitation to Comment

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Approval of amendment to the fishery managment plan for Atlantic herring; emergency regulations and invitation to comment.

SUMMARY: An amendment to the fishery managment plan for Atlantic herring is approved. The amendment, which extends the current management scheme through Fishing Year 1979/1980 (July 1, 1979–June 30, 1980) is implemented through emergency regulations. Public comment on the emergency regulations is invited until August 14, 1979.

EFFECTIVE DATE: The emergency regulations become effective at 0001 hours on July 1, 1979 and will remain in effect through August 14, 1979. Public comments on the emergency regulations will be accepted until August 14, 1979.

SEND COMMENTS TO: Dr. Robert W. Hanks, Acting Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930. Mark "Herring Comments" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT: Dr. Robert W. Hanks, same address as above; telephone (617) 281–3600.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Herring Fishery of the Northwest Atlantic (FMP) was prepared by the New England Fishery Management Council and approved in December 1978 by the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA). The FMP was implemented through emergency regulations and these emergency measures became final regulations on March 19, 1979 (44 FR 17186, March 21, 1979). Subsequently, the FMP was amended to encourage fishermen to concentrate their efforts on the Georges Bank herring stock (44 FR 18508, March 28, 1979). The regulation implementing this amendment became final on June 26, 1979 and was published on Thursday June 28, 1979.

One of the primary objectives of the FMP is to prevent an excess harvest of herring from the depressed Gulf of Maine stock. Using the best scientific information available, domestic quota of 8,000 metric tons (MT) was set for the Gulf of Maine management area for Fishing Year 1978/1979 (July 1, 1978–June 30, 1979). This quota was divided into a 4,000 MT allocation for the winter/spring period (December 1–June 30) and 4,000 MT for the summer/fall period (July 1–November 30). The domestic harvest from the Georges Bank and South management area was established at 10,000 MT. The winter/spring allocation for this area was 2,500 MT and the summer/fall quota was 7,500 MT. The optimum yields for both managment areas were equal to the annual domestic quotas.

The FMP and its implementing regulations would have been outdated at the end of the 1978/1979 fishing year. However, in April 1979, the New England Council prepared an amendment to the FMP to extend the optimum yields and seasonal allocations for both management areas through fishing year 1979/1980, which begins July 1, 1979, and ends June 30, 1980. This action was taken to prevent damage to the stocks which could result from unregulated fishing in the fishery conservation zone. In the interim, the Council was presented with new scientific data on the condition of the Atlantic herring stocks; it is now in the process of preparing other revisions to the FMP which will refine the management scheme and alter the optimum yields and domestic quotas. It is anticipated that these amendments to the FMP will be submitted to the Assistant Administrator for Fisheries, NOAA, for approval and implementation during fishing year 1979/1980.

The Assistant Administrator approved the amendment to extend the current FMP through fishing year 1979/1980 on May 25, 1979. The resulting changes to be made in the FMP are as follows:

1. The table of contents is amended by deleting the headings for subsections 3.2.3.1 and 3.2.3.2. and substituting the following:

3.2.3.1. Total Allowable Catch in 5Y for 1979/1980.
3.2.3.2. Total Allowable Catch in 5Z/SA6 for 1979/1980.

2. The second paragraph of subsection 2.4.1 is amended by deleting "1978" and substituting "1979".

3. The second paragraph of 3.1 is amended by deleting "1978/1979" from the third sentence.

4. Table 3.2.3. is deleted in its entirety and the following is substituted:

Table 3.2.3.—*OY's, TALFF, and Seasonal Quotas Recommended for the Fishing Year 1979/1980*

	5Y*	5Z/SA6	All areas
Optimum yield (OY)	8,000 MT	10,000 MT	18,000 MT
Expected domestic catch (EDC)	8,000 MT	10,000 MT	18,000 MT
Total allowable level of foreign fishing (TALFF)	0	0	0
Seasonal quotas:			
July–November 1979	4,000 MT	[1]7,500 MT	11,500 MT
December 1979–June 1980	4,000 MT	2,500 MT	6,500 MT

*Excludes Maine territorial waters.
[1]Includes all landings from west of 71°50' west longitude."

5. Subsection 3.2.3.1. is amended by deleting "1978/1979" wherever it occurs and substituting "1979/1980."

6. Subsection 3.2.3.1. is amended by deleting "July–November 1978" in the first sentence of the second paragraph and substituting "July–November 1979."

7. Subsection 3.2.3.1. is amended by deleting "December 1978–June 1979" in the first sentence of the second paragraph and substituting "December 1979–June 1980."

8. Subsection 3.2.3.2. is amended by deleting "1978/1979" wherever it occurs and substituting "1979/1980".

9. Subsection 3.2.3.2. is amended by deleting "July-November 1978" from the second paragraph and substituting "July-November 1979".

10. Subsection 3.2.3.2. is amended by deleting "December 1978-June 1979" from the second paragraph and substituting "December 1979-June 1980".

11. Subsection 3.2.3.4. is amended by deleting "1978/79" wherever it occurs and substituting "1979/1980".

Failure to continue the herring management scheme through fishing year 1979/1980 would result in unregulated harvesting in the fishery conservation zone which could damage the stocks of Atlantic herring and cause economic and social disruption to the fishing industry. For these reasons, the Assistant Administrator, in accordance with Section 305(e) of the Fishery Conservation and Management Act of 1976, as amended, has determined that an emergency exists in the Atlantic herring fishery. Therefore, the amendment extending the FMP is implemented through emergency regulations which appear at the end of this document.

The Assistant Administrator has made a preliminary determination, pursuant to Executive Order 12044, that the FMP amendment is not significant. Because the amendment makes no changes in the regulations and maintains the status quo by extending the 1978–79 OY's and seasonal allocations into the 1979–80 fishing year, it does not substantially or materially alter the existing regulations.

Public comments on the emergency regulations will be accepted until August 14, 1979.

The final Environmental Impact Statement on the FMP was filed with the Environmental Protection Agency on September 18, 1978.

Signed at Washington, D.C., this 26th day of June, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

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

50 CFR 653.21 is amended by revising paragraph (a)(1) and (2) and paragraph (b)(1) and (2) as follows:

§ 653.21 Seasonal catch quotas

(a) *Gulf of Maine* * * *

(1) For the period from July 1, 1979, through November 30, 1979 (five months), 4,000 metric tons; and

(2) For the period from December 1, 1979, through June 30, 1980 (seven months), 4,000 metric tons.

(b) *Georges Bank and South* * * *

(1) For the period from July 1, 1979, through November 30, 1979 (five months), 7,500 metric tons; and

(2) For the period from December 1, 1979, through June 30, 1980 (seven months), 2,500 metric tons.

[FR Doc. 79-20404 Filed 6-29-79; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 44, No. 128
Monday, July 2, 1979

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 924]

Handling of Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, Oreg.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposed regulation which would prescribe minimum grade and size requirements on shipments of fresh Washington-Oregon prunes. These requirements are designed to provide for orderly marketing in the interests of producers and consumers.

DATES: Comments must be received by July 13, 1979.

ADDRESSES: Send comments to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours. (7 CFR 1.27 (b)).

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

SUPPLEMENTARY INFORMATION: Consideration is being given to the following proposal, which would limit the handling of fresh prunes by establishing the minimum grade and size recommended by the Washington-Oregon Fresh Prune Marketing Committee, established under the marketing agreement and Order No. 924, as amended (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This proposal has not been determined significant under USDA criteria for implementing Executive Order 12044.

The recommendations of the Washington-Oregon Fresh Prune Marketing Committee reflect its appraisal of the crop and current and prospective market conditions. The committee expects fresh shipments of Washington-Oregon prunes to start on or about August 1, 1979, and to total 20,000 tons compared with 21,260 tons last season. The proposed regulation is designed to prevent the handling of low quality and small size prunes which do not provide consumer satisfaction and to promote orderly marketing in the interest of producers and consumers, consistent with the objective of the act.

Such proposal reads as follows:

§ 924.317 Prune Regulation 17.

Order. (a) During the period August 1, 1979, through August 31, 1980, no handler shall handle any lot of prunes, except prunes of the Brook variety, unless:

(1) Such prunes grade at least U.S. No. 1, except that only two-thirds of the surface of the prune is required to be purplish color, and such prunes measure not less than 1¼ inches in diameter as measured by a rigid ring: *Provided,* That the following tolerances, by count, of the prunes in any lot shall apply in lieu of the tolerance for defects provided in the United States Standards for Grades of Fresh Plums and Prunes: A total of not more than 15 percent for defects, including therein not more than the following percentage for the defect listed:

(i) 10 percent for prunes which fail to meet the color requirement;

(ii) 10 percent for prunes which fail to meet the minimum diameter requirement;

(iii) 10 percent for prunes which fail to meet the remaining requirements of the grade: *Provided,* That not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including in the latter amount not more than 1 percent for decay, or

(2) Such prunes are handled in accordance with paragraph (b) of this section.

(b) Notwithstanding any other provision of this regulation, any individual shipment which, in the aggregate, does not exceed 500 pounds net weight, of prunes of the Stanley or Merton varieties of prunes, or 350 pounds net weight, of prunes of any variety other than Stanley or Merton varieties of prunes, which meets each of the following requirements may be handled without regard to the provisions of paragraph (a) of this section, and of §§ 924.41 and 924.55:

(1) The shipment consists of prunes sold for home use and not for resale, and

(2) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(c) The term "U.S. No. 1" shall have the same meaning as when used in the United States Standards for Fresh Plums and Prunes (7 CFR 2851.1520–2851.1538); the term "purplish color" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (April 29, 1978), and in the Oregon State Department of Agriculture Standards for Italian Prunes (October 5, 1977); the term "diameter" means the greatest dimension measured at right angles to a line from the stem to blossom end of the fruit; and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(d) Prune Regulation 16 (43 FR 30790) is hereby terminated August 1, 1979.

Dated: June 27, 1979.

D. S. Kuryloski,

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

[FR Doc. 79–20370 Filed 6–29–79; 8:45 am]

BILLING CODE 3410–02–M

[7 CFR Part 947]

Irish Potatoes Grown in Modoc and Siskiyou Counties in California and in All Counties in Oregon Except Malheur County; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would require fresh market shipments of potatoes grown in Modoc and Siskiyou Counties in California and all counties in Oregon except Malheur County to be inspected and meet minimum grade, size, cleaniness, pack and maturity requirements. The regulation should promote orderly marketing of such potatoes and keep less desirable sizes and qualities from being shipped to consumers.

DATE: Comments due July 9, 1979.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Donald S. Kuryloski, Acting Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447–6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 114 and Order No. 947, both as amended, regulate the handling of potatoes grown in designated counties of Oregon and California. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Oregon-California Potato Committee, established under the order, is responsible for its local administration.

This notice is based upon recommendations made by the committee at its public meeting in Lincoln City, Oregon, on June 14, 1979.

The grade, size, maturity, pack, cleanliness and inspection requirements recommended herein are similar to those issued during the last season. They are necessary to prevent potatoes of low quality or undesirable sizes from being distributed to fresh market outlets. These specific proposals would benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area, thereby promoting orderly marketing and would tend to effectuate the declared policy of the act.

The committee recommends that all varieties be at least U.S. No. 2 grade. Minimum sizes would be: For export—1½ inches in diameter; District No. 5—2¼ inches in diameter or 5 ounces in weight for Norgold variety and 2 inches or 4 ounces for other varieties; Districts No. 1–4—1⅞ inches for all varieties except beginning September 1, 1979, Russet Burbanks would be 2 inches or 4 ounces.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Inspection requirements would be modified for certain handlers whose facilities are located far enough from major production areas to cause a substantial financial burden in maintaining a full-time Federal-State inspector.

A specified quantity of potatoes would be exempt from maturity requirements in order to permit growers to make test diggings without loss of the potatoes so harvested.

Shipments would be permitted to certain special purpose outlets without regard to minimum grade, size, cleanness, maturity, pack and inspection requirements, provided that safeguards were met to prevent such potatoes from reaching unauthorized outlets. Certified seed would be so exempt, subject to the safeguard provisions only when shipped outside the district where grown.

Shipments for use as livestock feed within the production area or to specified adjacent areas would likewise be exempt; a limit to the destinations of such shipments would be provided so that their use for the purpose specified would be reasonably assured. Shipments of potatoes between Districts 2 and 4 for planting, grading, and storing would be exempt from requirements because these two areas are homogenous and have no natural division. Other districts are more clearly separated and do not have this problem. For the same reason, potatoes grown in District 5 may be shipped without regard to the aforesaid requirements to the counties of Adams, Benton, Franklin and Walla Walla in the State of Washington, and Malheur County, Oregon, for grading and storing. Since no purpose would be served by regulating potatoes used for charity purposes, such potatoes are exempt. Also potatoes for most processing uses are exempt under the legislative authority for this part.

Requirements for export shipments differ from those for domestic markets. While the standard quality requirements are desired in foreign markets, smaller sizes are more acceptable. Therefore, different requirements for export shipments are proposed.

To maximize the benefits of orderly marketing the proposed regulation should become effective on July 15, when the marketing season is expected to begin. Interested persons were given an opportunity to comment on the proposal at an open public meeting on June 14, where it was recommended by the committee. This proposal is similar to regulations in effect for past seasons. It is hereby determined that the period allowed for comments should be sufficient under these circumstances and will tend to effectuate the declared policy of the act.

This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The proposal is as follows:

§ 947.337 [Removed]

1. Termination of regulation: Handling regulation § 947.337, as amended, effective July 25, 1978, through October 15, 1979 (43 FR 28508 and 32118) shall be terminated upon the effective date of this section.

2. Section 947.338 is added to read as set forth below.

§ 947.338 Handling regulation.

During the period July 15, 1979, through October 15, 1980, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a) through (f) of this section or unless such potatoes are handled in accordance with paragraphs (g) and (h), or (i) of this section.

(a) *Grade requirements.* All varieties—U.S. No. 2, or better grade.

(b) *Minimum size requirements.* (1) For Export: All varieties—1½ inches in diameter.

(2) For District No. 5: (i) Norgold variety including commingled shipments containing Norgolds—2¼ inches in diameter or 5 ounces in weight; (ii) Other varieties—2 inches in diameter or 4 ounces in weight.

(3) For Districts No. 1 through 4: (i) All varieties—1⅞ inches in diameter except (ii) beginning September 1, 1979, Russet Burbanks—2 inches in diameter or 4 ounces in weight.

(c) *Cleanness requirements.* All varieties and grades—As required in the United States Standards for Grades of Potatoes, except that U.S. Commercial may be no more than "slightly dirty."

(d) *Maturity (skinning) requirements.* (1) Round and White Rose varieties: not more than "Moderately skinned."

(2) Other Long Varieties (including but not limited to Russet Burbank and Norgold): not more than "slightly skinned."

(3) Not to exceed a total of 100 hundredweight of potatoes may be handled during any seven day period without meeting these maturity requirements. Prior to shipment of potatoes exempt from the above maturity requirements, the handler shall obtain from the committee a Certificate of Privilege.

(e) *Pack.* Potatoes packed in 50-pound cartons shall be U.S. No. 1 grade or better, except that potatoes that fail to meet the U.S. No. 1 grade only because of hollow heart and/or internal discoloration may be shipped: *Provided,* The lot contains not more than 10 percent damage by hollow heart and/or internal discoloration, as identified by USDA Color Photograph E (Internal Discoloration—U.S. No. 2—Upper Limit), POT–CP–9, May, 1972, or not

more than 5 percent serious damage by internal defects.

(f) *Inspection.* (1) Except when relieved by paragraphs (g) and (h), or (i) of this section and subparagraph (2) of this paragraph, no person shall handle potatoes without first obtaining inspection from an authorized representative of the Federal-State Inspection Service.

(2) Handlers making shipments from facilities located in an area where inspection costs would otherwise exceed one and one-half times the current per-hundredweight inspection fee, are exempt from on site inspection: *Provided,* Such handler has made application to the committee for inspection exemption on forms supplied by the committee: *And provided further,* That such handler signs an agreement with the committee to report each shipment on a daily basis and pay the committee a sum equal to the current inspection fee.

(3) For the purpose of operation under this part each required inspection certificate is hereby determined, pursuant to § 947.60(c) to be valid for a period of not to exceed 14 days following completion of inspection as shown on the certificate. The validity period of an inspection certificate covering inspected and certified potatoes that are stored in mechanically refrigerated storage within 14 days of the inspection shall be 14 days plus the number of days that the potatoes were held in refrigerated storage.

(4) Any lot of potatoes previously inspected pursuant to § 947.60 and certified as meeting the requirements of this part is not required to have additional inspection under § 947.60(b) after regrading, resorting, or repacking such potatoes, if the inspection certificate is valid at the time of regrading, resorting, or repacking of the potatoes.

(g) *Special purpose shipments.* The minimum grade, size, cleanliness, maturity, pack and inspection requirements set forth in paragraphs (a) through (f) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(1) Certified seed, subject to applicable safeguard requirements of paragraph (h) of this section.

(2) Livestock feed: However, potatoes may not be handled for such purposes if destined to points outside of the production area, except that shipments to the counties of Benton, Franklin and Walla Walla in the State of Washington and to Malheur County, Oregon, may be made, subject to the safeguard provisions of paragraph (h) of this section.

(3) Planting in the district where grown. Further, potatoes for this purpose grown in District No. 2 or District No. 4 may be shipped between those two districts.

(4) Grading or storing under the following provisions:

(i) Between districts within the production area for grading or storing if such shipments meet the safeguard requirements of paragraph (h) of this section.

(ii) Potatoes grown in district No. 2 or District No. 4 may be shipped for grading or storing between those two districts without regard to the safeguard requirements of paragraph (h) of this section.

(iii) Potatoes grown in District No. 5 may be shipped for grading and storing to points in the counties of Adams, Benton, Franklin and Walla Walla in the State of Washington, or to Malheur County, Oregon, without regard to the safeguard provisions of paragraph (h) of this section.

(5) Charity: Except that shipments for charity may not be resold if they do not meet the requirements of the marketing order, and that shipments in excess of 5 hundredweight per charitable organization shall be subject to the safeguard provisions of paragraph (h) of this section.

(6) Starch manufacture.

(7) canning, freezing, prepeeling, and "other processing" (except starch manufacturing), as hereinafter defined (including storage for such purposes).

(h) *Safeguards.* (1) Each handler making shipments of certified seed outside the district where grown pursuant to paragraph (g) of this section shall obtain from the committee a Certificate of Privilege, and shall furnish a report of shipments to the committee on forms provided by it.

(2) Each handler making shipments of potatoes pursuant to subparagraphs (2), (4)(i), and (5) of paragraph (g) of this section shall obtain a Certificate of Privilege from the committee, and shall report shipments at such intervals as the committee may prescribe in its administrative rules.

(3) Each handler making shipments pursuant to subparagraph (7) of paragraph (g) of this section may ship such potatoes only to persons or firms designated as manufacturers of potato products by the committee, in accordance with its administrative rules.

(i) *Minimum quantity exemption.* Any person may handle not more than 19 hundredweight of potatoes on any day without regard to the inspection requirements of § 947.60 and to the assessment requirements of § 947.41 of this part except no potatoes may be handled pursuant to this exemption which do not meet the requirments of paragraph (a), (b), (c), (d) and (e) of this section. This exemption shall not apply to any part of a shipment which exceeds 19 hundredweight.

(j) *Definitions.* (1) The terms "U.S. No. 1," "U.S. Commercial," "U.S. No. 2," "moderately skinned" and "slightly skinned" shall have the same meanng as when used in the U.S. Standards for Grades of Potatoes (7 CFR 2851.1540–2851.1566) including the tolerances set forth therein.

(2) The term "slightly dirty" means potatoes that are not damaged by dirt.

(3) The term "prepeeling" means the commercial preparation in a prepeeling plant of clean, sound, fresh potatoes by washing, peeling or otherwise removing the outer skin, trimming, sorting, and properly treating to prevent discoloration preparatory to sale in one or more the styles of peeled potatoes described in § 2852.2422 United States Standards for Grades of Peeled Potatoes (7 CFR 2852.2421–2852.2433).

(4) The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, or starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing."

(5) Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 114, as amended, and this part.

Dated: June 27, 1979.

D. S. Kuryloski,

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

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NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 25 and 95]

Access to and Protection of National Security Information and Restricted Data

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rules.

SUMMARY: The Nuclear Regulatory Commission is issuing proposed rules governing access to and protection of National Security Information and Restrictive Data. When former Atomic Energy Commission regulations were reissued in March 1975 by the Nuclear Regulatory Commission, rules governing access to and protection of the National Security Information and Restrictive Data were not included. A joint Energy Research and Development Administration—Nuclear Regulatory Commission task force was formed on March 17, 1976, to propose a plan of action for improving the control and protection of nuclear materials at NRC-licensed fuel cycle facilities. The task force, addressed the current status and future direction of physical security protection at NRC-licensed facilities possessing formula quantities of strategic special nuclear materials.[1] The intended effect of these proposed rules is to establish procedures to facilitate licensee access to and protection of National Security Information and Restricted Data.

DATES: Comments must be received on or before August 31, 1979.

ADDRESSES: Comments or suggestions concerning the proposed rules should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street, N.W., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond J. Brady, Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 427–4472.

SUPPLEMENTARY INFORMATION: The task force report was issued in July 1976.[2] The joint task force report included a recommendation that the NRC enable licensees to have access to classified information pertinent to the protection of their facilities. 10 CFR Parts 25 and 95 establish procedures to facilitate licensee access to and protection of National Security Information and Restricted Data. The substantive criteria and administrative review procedures used in processing access authorizations are contained in 10 CFR Part 10.

A joint ERDA–NRC [3] task force was formed on March 17, 1976, to propose a plan of action for improving the control and protection of nuclear materials at NRC-licensed fuel cycle facilities. The task force addressed the current status and future direction of physical security protection at NRC-licensed facilities possessing formula quantities of strategic special nuclear materials.[1] The task force report was issued in July 1976.[2]

The joint task force report also included a recommendation that the NRC enable licensees to have access to classified information pertinent to the protection of their facilities. 10 CFR Parts 25 and 95 establish procedures to facilitate licensee access to and protection of National Security Information and Restricted Data. The substantive criteria and administrative review procedures used in processing access authorizations are contained in 10 CFR Part 10.

While Parts 25 and 95 are expected to be used primarily by fuel cycle facilities and transportation activities, they may also be used by other facilities (e.g., Light Water Reactor facilities) if persons at those facilities needed access to National Security Information and Restricted Data. These proposed Parts, however, do not encompass and should not be associated with licensee employee screening techniques addressed in NRC's previously proposed clearance rule for persons having access to or control over special nuclear material.

Licensees and other personnel needing access to classified information related to the protection and control of formula quantities of strategic special nuclear material will be able to submit applications for NRC personnel security access authorizations. Applications from individuals having current Federal access authorizations may be processed expeditiously at less cost to the applicant, since the Commission, under Section 145.c. of the Atomic Energy Act, may accept the investigations and reports of other Federal Government agencies which conduct personnel security investigations. The use of such investigations and reports is contingent upon their serving as the basis for a previous security clearance approval.

Part 25 contains procedures for establishing initial and continuing eligibility of individuals for access to Secret and Confidential National Security Information and Confidential Restricted Data, received or developed in conjunction with the licenses issued under Parts 50 or 70.

It is anticipated that essentially all applications will be submitted for the lower "L" access authorization since information involved is not expected to be at higher levels of classification which would require a "Q" access authorization. Part 95 establishes procedures for the protection of such information at a facility. Organizations in the nuclear industry affected by Parts 25 and 95 are requested to submit estimates during the comment period of the number of personnel access authorization and facility clearances required.

Licensees can apply for personnel security access authorizations using procedures in 10 CFR Part 25 and can request approval of their facilities as repositories for classified matter by following procedures in 10 CFR Part 95.

It should be emphasized that Parts 25 and 95 are procedural only. They describe the manner in which a licensee's employee and other individuals may be granted personnel access authorizations, and the way in which the licensee and other license related organizations may be issued a security facility approval so that classified information may be received or otherwise handled at a facility. Part 25 does not state who must have access authorizations, but obviously personnel whose jobs require knowledge of classified information will need such authorization.

Part 95 describes procedures for obtaining a security facility approval and the procedures for classifying, protecting and controlling National Security Information and Restricted Data at an approved facility. Thus these two parts deal with the mechanics of access authorizations and security facility approval, and would be applicable only if the individuals at a licensed or related facility had a need-to-know the classified information.

Part 25 serves another purpose, in that, its procedures may be followed to process access authorizations needed by persons involved in licensing hearings involving such information under 10 CFR Part 2, Subpart I.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Section 553 of Title 5 of the United States Code, notice is hereby given that adoption of a new 10 CFR Part 25 and 10 CFR Part 95 is contemplated.

1. A new Part 25 is added which reads as follows:

[1] Strategic special nuclear material is uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope), uranium-233, or plutonium. A formula quantity of strategic special nuclear material is 5,000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams Pu).

[2] Joint ERDA–NRC Task Force on Safeguards (U). Final report, July 1976, NUREG–0095.

[3] Effective October 1, 1977, ERDA was absorbed into the newly formed Department of Energy (DOE).

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

General Provisions

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Authority: Secs. 145. 161(i), Pub. L. 83–703, 68 Stat. 942, as amended, 948, as amended, (42 U.S.C. 2165, 2201); sec. 201(f), Pub. L. 93–438, 88 Stat. 1234 (42 U.S.C. 5841); E.O. 10865, and E.O. 12065.

General Provisions

§ 25.1 Purpose.

This Part establishes procedures for granting, reinstating, extending, transferring and terminating access authorizations of licensee personnel, licensee contractors or agents and other persons (e.g., individuals involved in adjudicatory procedures as set forth in 10 CFR Part 2, Subpart I) who may require access to information classified at the Secret and Confidential National Security Information and/or Restricted Data level.

§ 25.3 Scope.

The regulations in this Part apply to licensees and others who may require access to National Security Information and/or Restricted Data related to a license or application for a license.

§ 25.5 Definitions.

(a) "Access Authorization" is an administrative determination by the Commission that an individual (including a consultant) who is employed by or an applicant for employment with Commission contractors, licensee contractors, agents, or licensees of the Commission or any other individual designated by the Executive Director for Operations is eligible for access to National Security Information and/or Restricted Data; and an individual (including a consultant) who is a Commission employee or applicant for Commission employment is eligible for security clearance.

(b) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919), as amended.

(c) "Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

(d) "L" access authorization means an access authorization granted by the Commission which is normally based on a National Agency Check (NAC) or NAC and Inquiry (NACI) conducted by the Office of Personnel Management.

(e) "License" means a license issued pursuant to 10 CFR Part 50 or Part 70.

(f) "Matter" means documents or material.

(g) "National Security Information" means information or matter that is owned by, produced for or by, or under the control of, the United States Government, and that has been determined pursuant to Executive Order 12065 or prior orders to require protection against unauthorized disclosure and is so designated.

(h) "Need-to-know" means a determination by persons having responsibility for classified information or matter, that a proposed recipient's access to such classified information or matter is necessary in the performance of his official, contractual, or licensee duties of employment under the cognizance of the Commission.

(i) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy (DOE), except that the the DOE shall be considered a person to the extent that its facilities are subject to the licensing and related regulatory authority of the Commission pursuant to section 202 of the Energy Reorganization Act of 1974, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(j) "Q" Access Authorization means an access authorization granted by the Commission based on a full field investigation conducted by the Office of Personnel Management, the Federal Bureau of Investigation, or other U.S. Government agency which conducts personnel security investigations.

(k) "Restricted Data" means all data concerning design, manufacture or utilization of atomic weapons, the production of special nuclear material, or the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Act.

§ 25.7 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this Part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 25.9 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this Part should be addressed to the Director, Divison of Security, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

§ 25.11 Specific exemptions.

The Commission may, upon application of any interested party, grant an exemption from the requirements of Part 25. Exemptions will be granted only if they are authorized by law and will not constitute an undue risk to the common defense and security. Documentation related to the request, notification and processing of an exemption shall be maintained for two years beyond the period covered by the exemption.

§ 25.13 Records maintenance.

Each licensee or organization employing individuals approved for personnel security access authorizations under this Part, shall maintain records as prescribed within the Part. Certain of these records shall be subject to review and inspection by NRC representatives during security surveys.

Access Authorizations

§ 25.15 Access permitted under "Q" or "L" access authorization.

(a) A "Q" access authorization permits an individual access on a need-to-know basis to (i) Secret and Confidential Restricted Data and (ii) Secret and Confidential National Security Information including intelligence information, CRYPTO (i.e., cryptographic information) or other classified communications security (COMSEC) information.

(b) An "L" access authorization permits an individual access on a need-to-know basis to Confidential Restricted Data and Secret and Confidential National Security Information other than the categories noted in (a) above.

(c) Each employee of the Commission has a security clearance consisting of one of the two levels of access authorization. Licensees and other persons will furnish National Security Information and/or Restricted Data to a Commission employee on official business when the employee has the appropriate level of NRC security clearance and need-to-know.

§ 25.17 Approval for processing applicants for access authorization.

(a) Access authorization shall be requested for licensee employees or other persons (e.g., 10 CFR Part 2, Subpart I) who need access to National Security Information and/or Restricted Data in connection with activities under Parts 50 or 70.

(b) The request shall include a completed personnel security packet (see § 25.17(c)) and request form (NRC–237) signed by a licensee or licensee contractor official which identifies: the person for whom access authorization is requested; his date of birth; the level of access authorization needed ("Q" or "L"); and the activity for which access is required.

(c) Each personnel security packet so submitted, shall include the following completed forms:

(1) Personnel Security Questionnaire, (NRC–1, Parts I and II);

(2) National Agency Check-Data for Nonsensitive or Noncritical-Sensitive Position (SF–85A)—for "L" cases only;

(3) Two Standard Fingerprint cards, (FD–258);

(4) Security Acknowledgment, (NRC–176);

(5) Authority to Release Information, (NRC–259); and

(6) Related forms where specified in accompanying instructions (NRC–254 and NRC 254–A).

Forms identified in (1) and (2) above must be typed.

(d) To avoid delays in processing requests for access authorizations, each security packet should be reviewed for completeness and correctness (including legibility of response on the forms) prior to submittal.

(e) Applications for access authorization processing must be accompanied by a check or money order, payable to the United States Nuclear Regulatory Commission, representing the current cost for the processing of each "Q" and "L" access authorization request. Access authorization fees will be published in December of each year and will be applicable to each access authorization request received during the following calendar year. Applications from individuals having current Federal access authorizations may be processed expeditiously at less cost, since the Commission may accept the investigations and reports of other Federal Government agencies which conduct personnel security investigations. The use of such investigations and reports is contingent upon their serving as the basis for a previous security clearance approval.

§ 25.19 Processing applications.

Each application for access authorization together with its accompanying fee shall be submitted to the NRC Division of Security. If necessary the NRC Division of Security may obtain approval from the appropriate Commission office exercising licensing or regulatory authority before processing the access authorization request.

If the applicant is disapproved for processing, the NRC Division of Security will notify the submitter in writing and will return the original application (security packet) and its accompanying fee.

§ 25.21 Determination of initial and continued eligibility for access authorization.

(a) Following receipt by the NRC Division of Security of the reports of the personnel security investigations, the record will be reviewed to determine that granting an access authorization will not endanger the common defense and security and is clearly consistent with the national interest. If such a determination is made, access authorization will be granted. Questions as to initial eligibility, and any subsequent developments that raise a question of continued eligibility for access authorization will be determined in accordance with Part 10 of Chapter 1.

(b) The NRC Division of Security shall be notified of developments which bear on continued eligibility for access authorization (e.g., persons who marry subsequent to the completion of a personnel security packet must report this change by submitting a completed form entitled "Data Report on Spouse").

§ 25.23 Notification of grant of access authorization.

The determination to grant access authorization will be furnished in writing to the licensee or organization which initiated the request. Records of these notifications must be maintained by the licensee or requesting organization for one year after the access authorization has been terminated by the NRC Division of Security. This information may also be furnished to other representatives of the Commission, to licensees, contractors, or other Federal agencies. Notification of access authorization will not be given in writing to the individual himself except:

(1) In those cases in which the determination was made as a result of a Personnel Security Board or a Personnel Security Review Board hearing, or

(2) When the individual also is the designated official to whom written notifications are forwarded.

§ 25.25 Cancellation of requests for access authorization.

When a request for an individual's access authorization is withdrawn or cancelled, the NRC Division of Security will be notified by the requestor immediately by telephone so that the full field investigation or National Agency Check may be discontinued. The caller will supply the full name and date of birth of the individual, the date of request, and the type of access authorization originally requested ("Q" or "L"). Such telephone notice shall be promptly confirmed in writing.

§ 25.27 Reopening of cases in which requests for access authorizations are cancelled.

(a) In conjunction with a new request for access authorization for individuals whose cases were previously cancelled, new fingerprint cards in duplicate and a new Security Acknowledgment shall be furnished to the NRC Division of Security along with the request.

(b) Additionally, if six months or more have elapsed since the date of the last Personnel Security Questionnaire, a complete personnel security packet (see 25.17(c)) shall be executed by the individual. The NRC Division of Security, based on investigative or other needs, may require a complete personnel security packet in other cases as well. A fee, equal to the amount paid for an initial request, will be charged only if a new or updating investigation is required.

§ 25.29 Reinstatement of access authorization.

An up-to-date personnel security packet will be furnished with a request for reinstatement of an access authorization if 6 months or more have elapsed since termination of access authorization and a year or more has elapsed since the date of the previous

Personnel Security Questionnaire, or if any significant changes are known to have occurred since the termination. A new Security Acknowledgement will be obtained in all cases. Where personnel security packets are not required, a request for reinstatement shall state the level of access authorization to be reinstated and the full name and date of birth of the individual in order to establish positive identification. A fee, equal to the amount paid for an initial request, will be charged only if a new or updating investigation is required.

§ 25.31 Extensions and transfers of access authorizations.

(a) The NRC Division of Security may, on request, extend the authorization of an individual who possesses an access authorization in connection with a particular employer or activity, to permit access to National Security Information and/or Restricted Data in connection with an assignment with another employer or activity.

(b) The NRC Division of Security may, on request, transfer an access authorization when an individual's access authorization under one interest is terminated, simultaneously with his being granted access authorization for another employer or activity.

(c) Requests for extension or transfer of access authorization shall state the full name of the person, his date of birth and level of access authorization. The Director, Division of Security, may require a new personnel security packet (see 25.17(c)) to be completed by the applicant. A fee, equal to the amount paid for an initial request, will be charged only if a new or updating investigation is required.

§ 25.33 Termination of access authorizations.

(a) Access authorizations will be terminated when:

(1) Access authorization is no longer required, or

(2) An individual is separated from the employment or the activity for which he obtained an access authorization for a period of 60 days or more, or

(3) An individual, pursuant to 10 CFR Part 10, is no longer eligible for access authorization.

(b) A representative of the licensee or other organization which employs the individual whose access authorization will be terminated shall immediately notify the NRC Division of Security when the circumstances noted in (a)(1) or (a)(2) above exist; inform the individual that his access authorization is being terminated with the reason; and that he will be considered for reinstatement of access authorization if he resumes work requiring it.

(c) When an access authorization is to be terminated, a representative of the licensee or other organization shall conduct a security termination briefing of the individual involved, explain the Securty Termination Statement (NRC Form 136) and have the individual execute the form. The official shall notify the NRC Division of Security promptly in writing that a briefing was conducted and forward the original copy of the executed Security Termination Statement to the Division of Security.

Violations

§ 25.35 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. Additionally, National Security Information is protected pursuant to the requirements and sanctions of E.O. 12065. Any person who knowingly and willfully violates any provision of the Act or any regulation or order issued thereunder or the provisions of E.O. 12065 may be guilty of a crime, and upon conviction, may be punished by fine or imprisonment or both, as provided by law.

Classified Visits

§ 25.37 Classified visits.

Visits to NRC, NRC contractor, licensee or licensed related facilities, or other government agencies and their contractors involving access to classified information by individuals covered by this Part require advance certification of "need-to-know" and verification of NRC access authorization. Individuals planning such visits shall complete NRC Form 277, "Request for Visit or Access Approval," with the "need-to-know" certified by the appropriate Commission Office exercising licensing or regulatory authority. This Commission office shall then forward the request to the NRC Division of Security at least 15 days in advance of the date of the visit for appropriate verification of NRC access authorization.

2. A new Part 95 is added which reads as follows:

PART 95—SECURITY FACILITY APPROVAL AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

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Sec.
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Authority: Secs. 145, 161(i), Pub. L. 83–703, 68 Stat. 942, as amended, 948, as amended, (42 U.S.C. 2165, 2201); sec. 201 (f), Pub. L. 93–438, 88 Stat. 1243 (42 U.S.C. 5841); E.O. 10865, and E.O. 12065.

General Provisions

§ 95.1 Purpose.

The regulations in this part establish procedures for obtaining security facility approval and for safeguarding Secret and Confidential National Security Information and restricted Data received or developed in conjunction with activities licensed or regulated by the Commission. This Part does not apply to Top Secret information since no such information may be forwarded to licensees or others within the scope of an NRC license.

§ 95.3 Scope.

The regulations in this Part apply to licensees and others regulated by the Commission who may require access to National Security Information and/or Restricted Data used, processed, stored, reproduced, transmitted or handled in connection with a license or application for a license.

§ 95.5 Definitions.

(a) "Access Authorization" is an administrative determination by the Commission that an individual (including a consultant) who is employed by or an applicant for employment with Commission contractors, licensee contractors, agents, or licensees of the Commission or any other individual designated by the Executive Director for Operations is eligible for access to National Security Information and/or Restricted Data; and an individual (including a consultant) who is a Commission employee or applicant for Commission employment is eligible for security clearance.

(b) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919), as amended.

(c) "Authorized Classifier" means an individual authorized in writing by appropriate NRC authority to classify, declassify or downgrade the classification of information, work projects, documents, and materials.

(d) "Classified Mail Address" means a mail address established for each facility approved by the NRC, to which all National Security Information or Restricted Data for the facility is to be sent.

(e) "Classified Matter" means documents and material containing classified information.

(f) "Combination Lock" means a three position, manipulation resistant, dial type lock.

(g) "Commission" means the Nuclear Regulatory Commission or its duly authorized representatives.

(h) "Infraction" means an act or omission involving failure to comply with NRC security regulations, and may include a violation of law.

(i) "Intrusion Alarm" means a tamper-indicating electrical, electro-mechanical, electro-optical, electronic or similar device which will detect unauthorized intrusion by an individual into a building, protected area, security area, vital area, or material access area, and alert guards or watchmen by means of actuated visible and audible signals.

(j) "L" access authorization means an access authorization granted by the Commission which is normally based on a National Agency Check (NAC) or NAC and Inquiry (NACI) conducted by the Office of Personnel Management.

(k) "License" means a license issued pursuant to 10 CFR Part 50 or Part 70.

(l) "Material" means chemical substance without regard to form; fabricated or processed item; or assembly, machinery or equipment.

(m) "Matter" means documents or material.

(n) "National Security" means the national defense and foreign relations of the United States.

(o) "National Security Information" means information or matter that is owned by, produced for or by, or under the control of, the United States Government and that has been determined pursuant to Executive Order 12065 or prior orders to require protection against unauthorized disclosure and is so designated.

(p) "Need-to-know" means a determination, by persons having responsibility for classified information or matter, that a proposed recipient's access to such classified information or matter is necessary in the performance of his official contractual or licensee duties of employment under the cognizance of the Commission.

(q) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy (DOE), except that the DOE shall be considered a person to the extent that its facilities are subject to the licensing and related regulatory authority of the Commission pursuant to section 202 of the Energy Reorganization Act of 1974, any State or any political subdivision of, or any political entity within a State, any foreign government, or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(r) "Protective Personnel" means guard or watchman as defined in 10 CFR Part 73 or other persons designated responsibility for the protection of classified matter.

(s) "Q" access authorization means an access authorization granted by the Commission based on a full field investigation conducted by the Office of Personnel Management, the Federal Bureau of Investigation, or other U.S. Government agency which conducts personnel security investigations.

(t) "Restricted Data" means all data concerning design, manufacture or utilization of atomic weapons, the production of special nuclear material, or the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Act.

(u) "Security Area" means a physically defined space containing classified matter and subject to a physical protection and personnel access controls.

(v) "Security Container" includes any of the following repositories:

(1) A security filing cabinet—one that bears a Test Certification Label on the side of the locking drawer, inside wall adjacent to the locking drawer, or interior door plate, and is marked, "General Services Administation Approved Security Container" on the exterior of the top drawer or door.

(2) A safe—burglar-resistive cabinet or chest which bears a label of the Underwriters' Laboratories, Inc. certifying the unit to be a TL–15, TL–30, or TR–TL 30, and has a body fabricated of not less than 1 inch steel and a door fabricated of not less than 1½ inches steel exclusive of the combination lock and bolt work; or bears a Test Certification Label on the inside of the door and is marked "General Services Administration Approved Security Container" and has a body of steel at least ½" thick, and a combination locked steel door at least 1" thick, exclusive of bolt work and locking devices.

(3) A vault—which is a windowless enclosure constructed with walls, floor, roof and door(s) that will delay penetration sufficient to enable the arrival of emergency response forces capable of preventing theft, diversion, damage or compromise of classified information or matter, when delay time is assessed in conjunction with detection and communication subsystems of the physical protection system.

(4) a vault-type room—a room with one or more doors, all capable of being locked, protected by an intrusion alarm which creates an alarm upon the entry of a person anywhere into the room and upon exit from the room or upon movement of an individual within the room.

(5) Other repositories which in the judgment of the Division of Security would provide comparable physical protection.

(w) "Security Facility"—any facility which has been approved by NRC for using, processing, storing reproducing, transmitting or handling classified matter.

(x) "Security Facility Approval" means that a determination has been made by the NRC that a facility is eligible to use, process, store, reproduce, transmit or handle classified matter.

(y) "Security Survey" is an examination by an NRC representative of all devices, equipment, and procedures employed at a security facility to safeguard classified matter.

§ 95.7 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this Part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 95.9 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this Part should be addressed to the Director, Division of Security, Nuclear Regulatory Commission, Washington, DC 20555.

§ 95.11 Specific exemptions.

The Commission may, upon application of any interested party, grant an exemption from the requirements of Part 95. Exemptions will be granted only if they are authorized by law and will not constitute an undue risk to the common defense and security. Documentation related to the request, notification and processing of an exemption shall be maintained for two years beyond the period covered by the exemption.

§ 95.13 Records maintenance

Each licensee or organization granted security facility approval under this Part shall maintain such records as prescribed within the Part. Certain of these records shall be subject to review and inspection by NRC representatives during security surveys.

Physical Security

§ 95.15 Approval for processing licensees and others for security facility approval.

(a) A licensee, or other person who has a need to use, process, store, reproduce, transmit or handle National Security Information and/or Restriced Data at any location in connection with Commission related activities shall promptly request an NRC security facility approval.

(b) The request shall include the following information: the name of the facility; the location of the facility; a security plan outlining the facility's proposed security procedures and controls for the protection of National Security Information and/or Restricted Data; a floor plan of the area in which the matter is to be used, processed, stored, reproduced, transmitted or handled.

(c) NRC will promptly inform applicants of the acceptability of the request for further processing and will notify the licensee or other person of their decision in writing.

§ 95.17 Processing security facility approval.

Following receipt of an acceptable request for security facility approval NRC will perform an initial security survey of the licensee or other facility to determine that granting a security facility approval would be consistent with the national security. If NRC makes such a determination, security facility approval will be granted. If not, security facility approval will be withheld pending compliance with survey recommendations or until a waiver is granted pursuant to 95.11.

§ 95.19 Grant, denial, or suspension of security facility approval.

Notification of the Commission's grant, denial, or suspension of security facility approval will be furnished in writing, or orally with written confirmation. This information will also be furnished to representatives of NRC, NRC licensees, or other Federal agencies, having a need to transmit National Security Information and/or Restricted Data to the licensee or other person.

§ 95.21 Cancellation of requests for security facility approval.

When a request for security facility approval is to be withdrawn or canceled, the NRC Division of Security will be notified by the requestor immediately by telephone so that processing for this approval may be terminated. The notification will identify the full name of the individual requesting discontinuance, his position with the facility, and the full identification of the facility. Such telephone advice shall be confirmed promptly in writing.

§ 95.23 Termination of security facility approval.

Security facility approval will be terminated when:

(a) There is no longer a need to use, process, store, reproduce, transmit or handle classified matter at the facility; or

(b) The Commission makes a determination that continued security facility approval is not in the interest of national security. In such cases the licensee or other person will be notified in writing of the determination and the procedures outlined in paragraph 95.53 will apply.

§ 95.25 Protection of national security information and restricted data in storage.

(a) Protection of Secret Matter:

(1) Secret documents while unattended or not in actual use shall be stored in locked security containers protected by an NRC approved intrusion alarm or by protective personnel.

(2) Protective personnel must be used where National Security Information or Restricted Data cannot be adequately safeguarded during working hours by employees or during non-working hours by an intrusion alarm system. In either case, protective personnel must be capable of responding within fifteen minutes.

(3) When protective personnel are used, physical checks of security containers shall be made as soon as possible after the close of each normal workday and at least once every eight hours thereafter during non-working hours. Records of such physical checks shall be maintained for one year.

(b) Confidential matter while unattended or not in use shall be stored:

(1) Under any of the methods used for Secret matter as set forth in paragraph (a) of this section, or

(2) In a locked security container within a locked room or building.

(c) Classified lock combinations:

(1) Knowledge of lock combinations protecting classified information shall be limited to a minimum number of personnel necessary for operating purposes, with a need-to-know, and possessing the highest access authorization of the matter stored in authorized to be stored in the container. Records identifying personnel having knowledge of such lock combinations shall be maintained until superseded by a new form or list, or until the container is removed from service.

(2) Combinations shall be changed:

(i) Whenever the container is placed in use.

(ii) Whenever a person knowing the combination no longer requires access to a combination. This may be as a result of a change in duties or location in the licensee's or licensee related organization or termination of employment with the licensee or other organization.

(iii) Whenever a combination has been subjected to possible compromise.

(iv) Whenever the container is taken out of service, and

(v) In any even at least once every year.

(c) Records of combinations: Records of combinations shall be classified, marked and safeguarded in a manner appropriate for the highest classification of the matter authorized to be stored in the security container.

(e) Selections of combinations: Each combination must be randomly selected and require the use of at least three different numbers. In selecting combinations, multiples, simple arithmetical ascending or descending series, telephone nuymbers, social security numbers, car license numbers, and calandar dates such as birthdates and anniversaries, shall be avoided.

(f) Cautions regarding combinations:

(1) When closing a combination lock, the dial must be turned at least four times in the same direction.

(2) Combinations shall be changed only by persons authorized access to Secret or Confidential National Security Information and/or Restricted Data depending upon the matter authorized to be stored in the security container.

(g) Posted information:

(1) The names, addresses, and telephone numbers of the custodian and all alternates having knowledge of the combination shall be posted on the outside of each security container.

(2) A record of the date of last change of the combination of each security container shall be maintained as long as the container is in service.

(3) A monitor sheet shall be posted on each security container approved for the storage of classified matter. The monitor sheet shall contain space for the date and initials of the persons locking and checking the container to assure it is secured. It shall be initialed at the end of each work day by the person locking the container and, where feasible, by another person who can physically double check the lock, locked drawer, or door and all exposed drawers to assure proper securing of the container. Such monitor sheets shall be maintained for one month.

(h) Unattended security container found open: In the event that an unattended security container housing classified matter is found unlocked, the custodian or an alternate shall be notified immediately. The container shall be secured by protective personnel and the contents shall be inventoried as soon as possible but not later than the next workday. A report reflecting all actions taken shall be submitted to the responsible Regional Office (see Appendix A, 10 CFR Part 73 for addresses) with an information copy to the NRC Division of Security. Records pertaining to such matters shall be retained for two years after completion of final corrective action.

(i) Keys to locks on containers holding classified matter or used to secure gates or doors in security areas perimeters shall be issued only to persons authorized access to the matter or to the area. Files relating to accountability for keys issued shall be maintained for 3 years after the key has been turned in.

§ 95.27 Protection while in use.

While in use, matter containing National Security Information or Restricted Data shall be under the direct control of an appropriately authorized individual to preclude physical, audio and visual access by persons who do not have the prescribed access authorization.

§ 95.29 Establishment of security areas.

(a) If, because of its nature, sensitivity or importance, matter containing National Security Information or Restricted Data cannot otherwise be effectively controlled in accordance with the provisions of §§ 95.25 and 95.27 of this Part, a security area shall be established to protect such matter.

(b) The following measures shall apply to security areas:

(1) Security areas shall be separated from adjacent areas by a physical barrier designed to prevent unauthorized access (physical, audio and visual) into such areas.

(2) Controls shall be established to prevent unauthorized access to and removal of classified matter.

(3) Access to classified matter shall be limited to persons who possess appropriate access authorization and who require access in the performance of their official duties or contractual obligations.

(4) Persons without appropriate access authorization for the area visited shall be escorted by an appropriately cleared person at all times while within security areas.

(5) Each individual authorized to enter a security area shall be issued a distinctive form of identification (e.g., badge) when the number of employees assigned to the area exceeds thirty per shift.

(6) During nonworking hours, admittance shall be controlled by protective personnel conducting patrols at a frequency, not less than once ever 8 hours, or as the responsible Regional Office Director deems necessary. Entrances shall be continuously monitored by protective personnel or by an approved alarm system.

§ 95.31 Protective personnel.

Whenever protective personnel are used to protect National Security Information and/or Restricted data they shall:

(a) Possess an "L" access authorization (or Department of Defense or DOE equivalent) if the licensee or other person possesses information classified Confidential National Security Information, Confidential Restricted Data or Secret National Security Information.

(b) Possess a "Q" access authorization (or Department of Defense or DOE equivalent) if the licensee or other person possesses Secret Restricted Data and the protective personnel require access as part of their regular duties.

§ 95.33 Security education.

A security education program shall be established and maintained by the licensee or license related organization which employs individuals possessing NRC personnel security access authorization under Part 25. The program shall include consideration and coverage of personnel access authorization requirements, the physical security features of the facilities, the classified nature of the work and the classification and sensitivity of the information. Each security education program shall provide for the security orientation and continuing security education of employees, and for the appropriate security instruction of terminating employees. Records reflecting an individual's initial and refresher security orientations and security termination shall be maintained for one year after termination of the individual's access authorization.

Control of Information

§ 95.35 Access to national security information and/or restricted data.

(a) Except as the Commission may authorize, no person subject to the regulations in this Part may receive or may permit any individual to have access to Secret or Confidential National Security Information or Restricted Data unless the individual has:

(1) A "Q" access authorization which permits an individual access to (i) Secret and Confidential Restricted Data and (ii) Secret and Confidential National Security Information which includes intelligence information, CRYPTO (i.e., cryptographic information) or other classified communications security (COMSEC) information.

(2) An "L" access authorization which permits an individual access to

Confidential Restricted Data and Secret and Confidential National Security Information other than that noted in (a)(1) above.

(3) An established "need-to-know" for the information. (See Definitions, 95.5(p).)

(4) NRC approved storage facilities if classified documents or material are to be transmitted to the individual.

(b) National Security Information or Restricted Data shall not be released by a licensee or other person to any personnel other than properly access authorized Commission licensee employees, or other individuals authorized access by the Commission.

§ 95.37 Classification and preparation of documents.

(a) *Classification.* National Security Information and Restricted Data generated or possessed by a licensee or other person must be appropriately marked. If a person or facility generates or possesses information which is believed to be classified based on guidance provided by NRC or by derivation from classified documents, but which no authorized classifier has determined to be classified, it must be protected and marked with the appropriate classification markings pending review and signature of an NRC authorized classifier. This final determination should be made within 30 working days. The licensee or other person must protect the document as National Security Information or Restricted Data of the highest classification at issue while awaiting a final determination.

(b) *Classification consistent with content.* Each document containing National Security Information and/or Restricted Data shall be classified Secret or Confidential according to its content.

(c) *Markings required on face of classified document.* Each classified document must contain on its face:

(1) *Identity of the classifier.* The identity of the classifier shall be shown by completion of a "Classified By (Original Authority)" line and "Derivative Classifier" line. The completion of the "Classified By" line would show the authorized classifier, guide or guidance responsible for the classification. The "Derivative Classifier" line would show the licensee or other official who determined the classification of the individual document based on previous determinations of the classification of the information involved.

Classified By:

.....
(Original Authority)

Derivative Classifier:

.....
(Name and Title)

(2) *Date of classification and office of origin.* The date on a document at the time of its origination may be considered the date of classification if the document is marked as classified on the same day it is originated. If the document is marked on a day subsequent to its origination, the actual date of marking must be shown on the "Classified By" line.

(3) *Classification designation (e.g., Secret, Confidential).*

(4) Type of classified information (e.g., Restricted Data or National Security Information).

(5) *Date or event for declassification or review.* Completion of "DECLASSIFY or REVIEW ON" line will satisfy this requirement. This requirement does not apply to documents which contain Restricted Data.

(6) *Authority and reason for extension* (applicable only to National Security Information documents which are to remain classified longer than six years). The identity of the original Top Secret classification authority who authorizes extending classification for more than six years is entered on an "Extended by" line. In such cases the reason for the extension is given in a brief, narrative form on the "Reason for Extension" line (e.g., "effects long-term SSNM safeguards"). In cases where classification guides or bulletins require extension, the guide or bulletin is indicated.

(7) *Downgrading date or event.* Documents containing solely National Security information may also contain a downgrading date or event. If the classifier is aware that the document should be downgraded automatically at any particular time, the fact shall be indicated on the face of the document as follows:

Downgrade to ———— on ————.

(d) *Classification markings.* The highest classification marking assigned to a document shall be placed in letters not less than one-quarter inch in height at the top and bottom of the outside of the front covers and title pages, if any, and first and last pages on which text appears, on both bound and unbound documents, and on the outside of back covers of bound documents. The balance of the pages shall be marked at the top and bottom either with:

(1) The classification marking assigned to the document, or

(2) The classification marking required by their content, or

(3) The marking UNCLASSIFIED if they have no classified content.

(e) *Additional markings.*

(1) If the document contains any form of Restricted Data it shall bear the appropriate marking on the first page of text, on the front cover and title page, if any. For example:

Restricted Data

This document contains Restricted Data as defined in the Atomic Energy Act of 1954. Unauthorized disclosure subject to Administrative and Criminal sanctions.

(2) If the document does not contain a form of Restricted Data but does contain National Security Information, it shall bear the following marking, on the first page of text, on the front cover and title page, of any:

National Security Information—Unauthorized disclosure subject to Administrative and Criminal Sanctions.

(3) Limitation on reproduction or dissemination. If the originator or classifier determines that reproduction or further dissemination of a document should be restricted, the following additional wording may be placed on the face of the document:

Reproduction or Further Dissemination Requires Approval of ————.

If any portion of this additional marking does not apply, it should be crossed out.

(f) *Portion markings.* In addition to the information required on the face of the document, each classified document is required, by marking or other means, to indicate clearly which portions are classified (e.g., paragraphs or pages) and which portions are not classified. The symbols (S) for Secret, (C) for Confidential, (U) for Unclassified, (RD) for Restricted Data, or (NSI) for National Security Information may be used immediately preceding the text to which it applies except that the designation shall follow titles or subjects. (Portion marking of paragraphs is not required for documents containing Restricted Data.)

If such portion marking is not practicable, the document must contain a description sufficient to identify the classified information and the unclassified information.

Example—

Pages 1–3 Secret National Security Information.

Pages 4–19 Unclassified.

Pages 20–25 Secret National Security Information.

Pages 26–32 Confidential National Security Information.

(g) *Documentation.* (1) All Secret documents shall bear on the first page a properly completed documentation stamp such as the following:

Document No. ————————

This document consists of —— pages. Copy No. —— of —— copies Series ——.

(2) The series designation shall be a capital letter beginning with the letter "A" designating the original set of copies prepared. Each subsequent set of copies of the same document shall be identified by the succeeding letter of the alphabet. The document number identifies the originating office, year of origin, and numerical sequence of the document in the originating office.

(h) *Letter of transmittal.* Any correspondence transmitting National Security Information and/or Restricted Data shall be marked with a classification at least as high as its highest classified enclosure. The classification may be higher if the enclosures, when combined, warrant a higher classification than any individual enclosure. When the contents of the letter of transmittal warrant a lower classification than the highest classified enclosure(s) or combination of enclosures or require no classification, a stamp or marking such as the following shall be used on the letter:

When separated from enclosures, handle this document as ————————.

(i) *Document which custodiam believes is improperly classified or lacking appropriate classification markings.* If a person receives a document which, in his opinion, is not properly classified, or does not have appropriate classification markings, he shall immediately notify the sender and suggest to the originator the classification which he believes to be appropriate. Pending final determination of proper classification, such document shall be safeguarded in accordance with the procedures required for the highest classification in question. Where unauthorized disclosure may have occurred, a report in accordance with Section 95.57 of this Part is required. Such reports shall be maintained for two years after final corrective action has been taken.

(j) *Files, folders or group of documents.* Files, folders, binders, or groups of physically connected documents shall be marked at least as high as the highest classified document which they contain. A document removed from the files, folders, binders or groups shall be handled in accordance with the document's respective classification.

§ 95.39 External transmission of documents and material.

(a) *Restrictions.* Documents and material containing National Security Information and/or Restricted Data received or originated in connection with an NRC license shall be transmitted only to Commission approved security facilities.

(b) *Preparation of documents.* Documents containing National Security Information and/or Restricted Data shall be prepared in accordance with the following, when transmitted outside an individual installation.

(1) They shall be enclosed in two sealed opaque envelopes or wrappers.

(2) The inner envelope or wrapper shall contain the addressee's classified mail address and the name of the intended recipient. The appropriate classification shall be placed on both sides of the envelope (top and bottom) and the additional markings, as appropriate, referred to in Section 95.37(e) of this Part shall be placed on the side bearing the address.

(3) The outer envelope or wrapper shall contain the addressee's classified mail address. No classification, additional marking or other notation shall be affixed which indicates that the document enclosed therein contains National Security Information or Restricted Data.

(4) A receipt which contains an unclassifed description of the document, the document number, if any, date of the document, copy number and series, classification, the date of transfer, the recipient and the person transferring the document shall be enclosed within the inner envelope containing the document and shall be signed by the recipient and returned to the sender whenever the custody of a Secret document is transferred. Such receipting for Confidential National Security Information or Confidential Restricted Data is at the option of the sender.

(c) Methods of Transportation. (1) Secret matter shall be transported only by one of the following methods:

(i) By a messenger-courier system specifically created for that purpose,

(ii) U.S. registered mail,

(iii) By protective services provided by United States air or surface commerical carriers under such conditions as may be prescribed by the Commission,

(iv) When the use of any of the above is precluded, by specifically designated individuals possessing appropriate NRC or other Federal access authorizations, and written authority. Items being carried should be listed in an appropriate location to permit their identification if lost.

(2) Confidential matter shall be transported by one of the methods set forth in subparagraph (1) of this paragraph, by U.S. first class, express or certified mail. First class, express, or certified mail may be used in trnasmission of Confidential documents to the Canal Zone, Puerto Rico, or any United States territory or possession.

(d) *Telecommunication of classified information.* There shall be no telecommunication of National Security Information or Restricted Data unless the secure telecommunication system has been approved by the NRC Division of Security.

§ 95.41 Accountability for secret matter.

Each licensee or other person possessing Secret National Security Information and/or Restricted Data shall establish an accountability procedure and shall maintain records to show the disposition of such matter. Records reflecting accountability and disposition of classified matter shall be maintained for two years after its disposition.

§ 95.43 Authority to reproduce.

Secret National Security Information and/or Restricted Data will not be reproduced without the written permission of the originator, his successor or higher authority. Confidential National Security Information and/or Confidential Restricted Data may be reproduced to the minimum extent necessary consistent with efficient operation without the necessity for permission.

§ 95.45 Changes in classification.

(a) Documents containing National Security Information and/or Restricted Data shall not be downgraded or declassified except as authorized by the Commission or the declassification and downgrading markings described in § 95.37c(5) and (7) of this Part. Requests for downgrading or declassifying any National Security Information and/or Restricted Data should be forwarded to the NRC Division of Security. Requests for downgrading or declassifying of Restricted Data will be coordinated as appropriate by the NRC Division of Security with the Department of Energy.

(b) If a change of classification or declassification is approved the previous classification marking shall be cancelled and the following statement, properly completed, shall be placed on the first page of the document:

Classification cancelled (or changed to) ———————— (Insert

appropriate classification) by authority of———— (Person authorizing change in classification) by———— (Signature of person making change and date thereof)

Any persons making a change in classification or receiving notice of such a change shall forward notice of the change in classification to holders of all copies as shown on their records.

§ 95.47 Destruction of matter containing national security information and/or restricted data.

Documents containing National Security Information and/or Restricted Data may be destroyed by burning, pulping, or another method that assures complete destruction of the information which they contain. The method of destruction must preclude recognition or reconstruction of the classified information. Any doubts on methods should be referred to the NRC Division of Security. If the document contains Secret National Security Information and/or Restricted Data, a record of the subject or title, document number, if any, originator, its date of origination, its series designation and copy number, and the date of destruction shall be signed by the person destroying the document and shall be maintained in the office of the custodian at the time of destruction. Such destruction records shall be maintained for a period of two years.

§ 95.49 Security of automatic data processing (ADP) systems.

Classified data or information shall not be processed or produced on an ADP system unless the system or procedures to protect the classified data or information have been approved by the NRC Division of Security.

§ 95.51 Retrieval of classified matter following suspension or revocation of access authorization.

In any case where the access authorization of an individual is suspended or revoked in accordance with the procedures set forth in Part 25 of this Chapter the licensee or licensed related organization shall, upon due notice from the Commission of such suspension or revocation, retrieve all National Security Information and Restricted Data possessed by the individual and take such action as necessary to preclude that individual having further access to such information.

§ 95.53 Termination, suspension or revocation of security facility approval.

(a) If the need to use, process, store, reproduce, transmit or handle classified matter, no longer exists, the security facility approval will be terminated. The facility may deliver all documents and materials containing National Security Information and Restricted Data to the Commission or to a person authorized to receive them; or the facility may destroy all such documents and materials. In either case the facility must submit a certification of nonpossession of National Security Information and Restricted Data to the NRC Division of Security.

(b) In any instance where security facility approval has been suspended or revoked based on a determination of the Commission that further possession of classified matter by the facility would endanger the common defense and national security, the facility shall, upon notice from the Commission, immediately deliver all classified documents and materials to the Commission along with a certificate of nonpossession of National Security Information and Restricted Data.

§ 95.55 Continued applicability of the regulations in this part.

The suspension, revocation or other termination of access authorization or security facility approval shall not relieve any person from compliance with the regulations in this Part.

§ 95.57 Reports.

Each licensee or other person having a security facility approval shall immediately report to the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix A, 10 CFR Part 73:

(a) Any alleged or suspected violation of the Atomic Energy Act, Espionage Act, or other Federal statutes related to National Security Information add/or Restricted Data.

(b) Any infractions, losses, compromises or possible compromise of National Security Information and/or Restricted Data or classified documents not falling within (a) above.

In addition, the licensee or other person shall submit to the NRC Division of Security NRC Form 790 (Classification Record) whenever a document containing National Security Information and/or Restricted Data is generated. Similarly, other appropriate notification whenever such documents are destroyed or their classification is changed shall be reported to the NRC Division of Security.

§ 95.59 Inspections.

The Commisison may make such inspections and surveys of the premises, activities, records, and procedures of any person subject to the regulations in this Part as the Commission deems necessary to effect the purposes of the Act.

Violations

§ 95.61 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. Additionally, National Security Information is protected pursuant to the requirements and sanctions of E.O. 12065. Any person who knowingly and willfully violates any provision of the Act or any regulation or order issued thereunder or the provisions of E.O. 12065 may be guilty of a crime, and upon conviction, may be punished by fine or imprisonment or both, as provided by law.

Dated at Washington, D.C. this 25th day of June 1979.

For the U.S. Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-20368 Filed 6-29-79; 8:45 am]

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FEDERAL RESERVE SYSTEM

[12 CFR Part 206]

[Reg. F; Docket No. R-0235]

Securities of Member State Bank

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: Pursuant to its authority under section 12(i) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78(i)) ("Act"), the Board proposes to amend its Regulation F (12 CFR 206) in order that it will be substantially similar to comparable rules and regulations issued by the Securities and Exchange Commission. This proposal is intended to comply with section 12(i) of the Act, which requires that the Board either conform its Regulation F to any changes made by the Commission in its relevant rules and regulations, or publish reasons why the Board has determined that such changes are not necessary or appropriate. The proposed changes, which in all major respects are consistent with recent amendments to the rules of the Commission, concern: (A) Beneficial Ownership and Acquisition Statements (B) Corporate Governance (C) Management

Remuneration (D) Changes in Independent Accountant and Auditor Fees and (E) Simplification and other Commission Amendments. There are, however, two provisions in the proposed amendments that, in one case would differ from the Board's present regulation and, in another would differ from the regulations of the Commission. Accordingly, the Board specifically requests comments on the dollar exemptions from reporting management indebtedness pursuant to Item 7(d) of Form F–5 (Proxy Statement) 12 CFR 206.51, and personal benefits pursuant to Item 7 on Form F–5 (Proxy Statement) 12 CFR 206.51, as more fully described below in sections B6 and C of the section entitled, "Supplementary Information".

DATES: Comments must be received by August 22, 1979.

ADDRESS: Interested persons are invited to submit written data, views or arguments regarding the proposed regulation to the Office of the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the docket number R–0235. All written comments will be made available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Thomas Sidman, Assistant Director, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3503), or Richard M. Whiting, Senior Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3786).

SUPPLEMENTARY INFORMATION: The Federal Reserve Board would make the following changes:

A. Filing and Disclosure Requirements Relating to Beneficial Ownership

Generally, section 13(d) of the Act requires that any person (or group of persons) who, as a result of an acquisition, becomes the beneficial owner of more than 5 per cent of certain classes of equity securities of certain issuers must file a report with respect to such acquisition. Section 13(d) of the Act was designed to provide information to the public and affected issuers about rapid accumulations of their equity securities in the hands of "beneficial owners" who could then have the ability to change or influence control of the issuer. To implement this provision, the Commission proposed in 1977 rules defining the term "beneficial ownership", SEC Release No. 34–13291, 43 **Federal Register** 12342 (February 24, 1977). Later Congress determined that the information required by section 13(d) and the regulations and forms promulgated thereunder did not provide adequate investment information. Congress therefore enacted legislation, principally the Domestic and Foreign Investment Disclosure Act of 1977, Pub. L. No. 95–213, 91 Stat. 1494 (1977), amending section 13(d) of the Act to specifically require certain enumerated disclosures such as residence, citizenship and the nature of the beneficial ownership. In addition, a new section 13(g) was added to the Act. Section 13(g) authorized the Commission to achieve a comprehensive, centralized and minimally burdensome reporting system and to close the gaps which exist in the present scheme for requiring disclosure by persons whose beneficial ownership exceeds 5 per cent of certain equity securities. SEC Release No. 34–15348, 43 **Federal Register** 55751 (November 29, 1978).

Accordingly, the Commission has adopted amendments to its regulations and forms that reflect the intent of Congress. First, the Commission broadened the definition of "beneficial ownership" by amending its Rule 13d–3. SEC Release No. 34–14692, 43 **Federal Register** 18484 (April 29, 1978). Under amended Rule 13d–3 beneficial ownership is determined with reference to voting power or investment power (the power to dispose or direct disposition of the security). For purposes of reporting pursuant to section 13(d) of the Act, one who has the right to acquire beneficial ownership is deemed to be a beneficial owner. The ownership will also apply for purposes of reporting under section 14(d)(1) of the Act. Second, the Commission adopted a new paragraph (c) to its Rule 13d–1 that requires filings by persons currently not required to report—i.e., (1) those who acquired beneficial ownership of securities prior to December 22, 1970, (2) those who acquired not more than a 2 per cent of a class of securities within a 12-month period, and (3) those who acquired securities in a stock-for-stock exchange registered under the Securities Act of 1933, SEC Release No. 34–15348, 43 **Federal Register** 55751 (November 29, 1978). Third, the Commission amended its Rule 13d–1(b) and adopted new short form Schedule G that may be used by specified institutional persons only when such persons are acquiring and holding securities in the ordinary course of business and not with the purpose or effect of changing or influencing control of the issuer or in connection with a participant in any transaction having such purpose or effect. SEC Release No. 34–14692, 43 **Federal Register** 18484 (April 28, 1978). Under the amended Commission rules, Schedule 13G is available for use by institutional investors such as certain brokers, dealers, banks, investment companies, investment advisors, employee benefit plans, pension funds, parent holding companies, groups, and insurance companies. Fourth, on April 21, 1978, the Commission amended its Rules 13d–1(b)(i)(G) and 13d–3(d)(3) to clarify the application of the new definition of beneficial ownership to parent holding companies and certain of their subsidiaries and to pledgees of securities. SEC Rel. No. 34–14910, 43 **Federal Register** 29767 (July 11, 1978). The Rule no longer exempts absolutely from the definition of beneficial owner a person whose only interest in the securities is that of a pledgee in the ordinary course of his business, although such pledgees continue to be exempt provided they meet certain conditions. Finally, the Commission has amended its Rule 13d–1(c) to require any person who is not "otherwise" required to report pursuant to Rule 13d–1 but who is a beneficial owner of more than 5 per cent of a specified class of equity securities, to report on Schedule 13G, 43 **Federal Register** 55751. A person could fall into this category if, for example, he acquired beneficial ownership of a class of securities that, while not registered pursuant to section 12(g) of the Act at the time of acquisition, has subsequently become registered. However, Rule 13d–1(c) exempts issuers who acquire their own securities from the class of persons not "otherwise" required to report. Thus, issuers who satisfy the exemption under section 13(d)(6)(c) of the Act do not have to file either Schedule 13D or Schedule 13G. All filings under Rule 13d–1(c) are to be made on a modified version of the Commission's Schedule 13G.

The Board proposes to amend its regulations and forms to expand the definition of beneficial ownership as described above and to provide a new short form acquisition notice. Accordingly, the Board proposes appropriate amendments to 12 CFR 206.4(h) and 206.5(1) of Regulation F, Form F–11, (Acquisition Form), 12 CFR § 206.47, Item 5 of Form F–5, (Proxy Statement), 12 CFR 206.51, and proposes new Form F–11A, (Short Form Ownership Statement), 12 CFR 206.48, as set forth below.

In considering these proposals the Board noted that pursuant to section 13(g)(5) of the Act the Commission is required to tabulate and make available to the public the information filed with it

relating to beneficial ownership and that for such purpose, the Commission has added cover pages to its forms that set forth such data in a form suitable for its data processing system. However, the Board believes that the addition of similar cover sheets to its forms is unnecessarily burdensome on those filing such forms. In addition, in view of the relatively small number of filings the Board expects to receive, the Board believes its staff can compile similar information while reviewing the filings. The Board will make such a tabulation of share ownership available to the public.

B. Corporate Governance

The Commission amended its rules relating to Corporate Governance. SEC Release No. 34–15384, 43 **Federal Register** 58522 (December 14, 1978). The objective of these amendments is to provide the investing public with additional information upon which to assess and participate in the corporate electoral process and corporate governance. The amendments require disclosure regarding:

1. *Shareholder Proposals.* The Commission revised its rules to allow a shareholder proponent the opportunity to bring an allegedly false or misleading statement in management's statement opposing the shareholder's proposal to the attention of management and the Commission. The Commission listed three reasons for adopting this rule: (1) it simply would be more equitable if shareholder proponents were permitted to see management's opposing statement before it is mailed to shareholders; (2) in light of the problems associated with a total reliance on judicial remedies and the limited Commission resources available for review of proxy materials, it appears appropriate for an effective administration of the proxy rules that a shareholder proponent be given the opportunity to examine management's opposing statement for accuracy and (3) it would appear to be in the best interests of all parties that questions concerning the factual accuracy of the opposing statements be resolved during the comment process. SEC Release 34–15384, 43 **Federal Register** 58522 (December 14, 1978).

The Board believes it appropriate to adopt a similar rule and, therefore, proposes to amend § 206.5(k)(5) of Regulation F as set forth below.

2. *Resignation of Directors.* The Commission revised its rules to require disclosure of a director's resignation if the director has furnished the registrant with a letter describing the disagreement relating to the registrant's operations, policies or practices and requesting that the matter be disclosed. If the issuer believes the description provided by the director is inaccurate or incomplete, it may include a statement of its views of the disagreement. The Commission believes that, as revised, the items will be less likely to create compliance problems and yet will still assure that directors who have resigned or declined to stand for re-election will be able to disclose this information in a manner which is most likely to reach shareholders.

The Board believes that the rule changes adopted by the SEC are beneficial and would adopt the amendments substantially in the form adopted by the SEC by amending Item 5 of Form F–3 (Current Report), 12 CFR 206.43, and Item 6(i) of Form F–5 (Proxy Statement), 12 CFR 206.51, as set forth below.

3. *Disclosure of Terms of Settlement of Election Contests.* The Commission amended its rules to require an issuer to disclose the settlement terms of an election contest, including the anticipated cost to issuer.

The Board has determined to adopt similar rules and, accordingly, proposes to revise Item 7(d) of Form F–4 (Quarterly Report), 12 CFR 206.44 and Item 3(b)(6) of Form F–5 (Proxy Statement), 12 CFR 206.51, as set forth below.

4. *Directors and Officers.* The Commission revised its rules and regulations to require additional information to provide investors with more comprehensive information about the background, qualifications and affiliations of directors who serve on the boards of public companies. Thus, disclosure is required of all other directorships held by each director on the board of any other company with a class of securities registered pursuant to the Act. In addition, disclosure is required of certain family and business relationships between any director or officer or nominee for such office.

The amended rules also require information about litigation in which officers and directors or nominees have been involved which may be material to an evaluation of the ability or integrity of such persons. The time period covered by this disclosure requirement is limited to the five years prior to filing. The amended rules require information about: injunctions prohibiting directors and officers from engaging in any type of business practice, future violations of federal or state securities laws and civil actions where there are violations of federal or state securities laws and any court order, judgment or decree enjoining or restricting such persons from acting in certain capacities particularly relating to certain business activities. Where there are mitigating circumstances surrounding consent orders, decrees or judgments, or where there are reasons why inferences should not be drawn from prior affiliations with a business association, these circumstances may be explained.

Specified identity and background information must also be disclosed concerning persons such as attorneys or special consultants employed by the bank who, although not officers, make or are expected to make significant contributions to the business of the bank. The Board has considered the Commission's revisions and has determined that similar revisions to its regulations would be appropriate. Accordingly, the Board has adopted revisions to Items of Form F–5 (Proxy Statement), 12 CFR 206.51, as set forth below.

5. *Committees.* The Commission adopted rules regarding the issuer's committee structure and management's participation therein. Each issuer must disclose: (1) whether it has a standing audit, nominee and compensation committee; (2) the functions that such committees perform; (3) the number of meetings annually held, and (4) the identity of any director attending fewer than 75 per cent of board of directors or committee meetings.

The Board has proposed substantially similar amendments to its regulations as set forth in Item 6 of Form F–5 (Proxy Statement), 12 CFR 206.51, as set forth below.

6. *Indebtedness of Specified Persons.* The Board proposes to amend its rules to require additional disclosure relating to the indebtedness to the bank, by its officers, directors and principal security holders. In particular, the Board would require a statement of the percentage of equity capital accounts of any disclosed indebtedness and of total indebtedness of all directors and officers. In addition, the Board would include repayment terms as one of the factors to be considered in determining whether an extension of credit is made in substantially the same terms as those required of others. Also, Instruction 2(d) of Item 7(d) of Form F–5 (Proxy Statement), 12 CFR 206.51, which presently provides an exclusion from reporting the indebtedness of specified persons when such indebtedness does not exceed the lesser of 10 per cent of equity capital or $10 million, would be amended by lowering the dollar amount of such exemption to $5 million while

retaining the 10 per cent of equity capital test. The board believes that this change would provide more meaningful disclosure for shareholder evaluation of management indebtedness. Thus, the proposed amendment contains the $5 million exemption discussed above; however, the Board *Specifically requests comment on the alternative* of maintaining such exemption at $10 million. Such comments will be considered when the Board adopts these amendments in a final form. Accordingly, the Board proposes to amend Item 7 of Form F–5 (Proxy Statement) 12 CFR 206.51, as set forth below.

C. Management Remuneration

On December 4, 1978, the Commission amended its rules with respect to management remuneration. SEC Rel. No. 34–15380, 43 **Federal Register** 58181 (December 13, 1978). The purpose of these amendments is to provide the public with more complete and quantitative information regarding the remuneration, including perquisites, of corporate management. The amended rules would require disclosure not only of remuneration paid directly by the registrant and its subsidiaries, but also of all remuneration from third parties for services to the registrant and its subsidiaries. In addition, disclosure is required in certain instances regarding remuneration not previously disclosed which is for services performed in prior fiscal years.

The Commission has amended its rules to require disclosure for the five highest paid officers (rather than three highest paid officers) in order to provide investors with further data with which to assess the performance of key members of management. However, the disclosure floor has been raised by 25 per cent from $40,000 to $50,000 in recognition of inflationary effects on remuneration. Thus, larger issuers will be required to disclose more information while smaller issuers will enjoy more privacy.

The remuneration table adopted by the Commission, which discloses information concerning the forms of remuneration received, has been modified in certain respects. The expanded format includes all cash or cash equivalent forms of remuneration that have been distributed during the fiscal year or which have been accrued during the fiscal year and with resonable certainty will be distributed or unconditionally vested in the future, if they relate to services performed in the fiscal year. Cash-equivalent remuneration includes the spread between the acquisition price and the fair market price of securities or property acquired under any plan or arrangement including securities issued on the exercise of options, less any amount previously reported in the remuneration table for a prior fiscal year. Cash-equivalent remuneration would also include benefits relating to life insurance, health insurance and medical reimbursement plans. However, nondiscriminatory group life insurance programs are exempt from the reporting requirements. Also included as cash-equivalent remuneration are certain personal benefits which are not directly related to job performance including indirect benefits. These include, among others, issuer payments for: (1) home repairs and improvements; (2) housing and other living expenses (including domestic service) provided at principal and/or vacation residences of management personnel; (3) personal use of company property, such as automobiles, planes, yachts, apartments, hunting lodges or company vacation houses; (4) personal travel expenses; (5) personal entertainment and related expenses; and (6) legal, accounting and other professional fees for matters unrelated to the business of the issuer. Other personal benefits that may be considered forms of remuneration are the following: the ability of management to obtain benefis from third parties, such as favorable bank loans and benefits from suppliers, where the corporation compensates, directly or indirectly, the bank or supplier for providing the loan or services to management; and the use of the corporate staff for personal purposes.

The Commission has adopted a conditional exclusion for certain personal benefits if an issuer cannot determine without unreasonable effort or expense the specific amount of personal benefits or the extent to which benefits are personal rather than business. If the issuer concludes such benefits do not exceed $10,000 and its board of directors concludes that their omission does not render the table materially misleading, they may be omitted. Footnote disclosure is required where personal benefits exceed 10 percent of an officer or director's remuneration or $25,000, whichever is less.

The table also includes the type of renumeration that may be of a contingent nature where the distribution of the remuneration or the unconditional vesting or measurement of benefits thereunder is subject to future events. Contingent remuneration is separated from cash and cash-equivalent remuneration in a separate column. This includes any amounts expensed under any pension or retirement plan, annuity, employment contract, deferred compensation plan, or similar arrangement. Contributions to tax qualified plans would be included but a general exclusion is permitted if the amount is not readily calculable, in which case an explanatory footnote would be require. Also included are any amounts expensed in connection with stock options, stock appreciation rights, phantom stock plans and any other compensation plan pursuant to which the measure of benefits is based on objective standards or the value of securities. This would encompass not only those arrangements in which the measure of benefits is based on the market prices of securities but also those in which benefits result, for example, from the issuer having met predetermined earnings goals.

There is also a requirement that disclosure be made of any stock purchase, profit sharing, thrift or similar plan. It should be noted that plans of this type might not involve contingencies geared to future events and may instead be includable as a cash-equivalent form of remuneration.

After reviewing the Commission's amended rules, the Board has determined that, with one possible exception, substantially similar amendments to its regulations are appropriate. That is, Item 7 of the Board's proposal would exempt from the disclosure requirements relating to personal benefits, benefits that do not exceed $5,000 for each specified person and that the bank file with the Board a statement of its practices and policies relating to such personal benefits. The Board believes this provision would result in more meaningful disclosure of personal benefits then is required under comparable Commission regulations. In the alternative, the Board is considering adoption of provisions relating to disclosure of personal benefits that would be identical to those of the Commission, as described above. To reiterate, those provisions would contain an exemption relating to unascertainable personal benefits where such benefits do not exceed $10,000 and where the board of directors of the bank determines that their nondisclosure would not be a material omission from the filing. The Board *specifically requests comment* on whether it should adopt in final form Item 7 as it has proposed or, in the alternative, whether it should conform its proposal to that of the Commission as described herein. Accordingly, the Board is proposing to

amend Item 7 of Form F–5 (Proxy Statement), 12 C.F.R. § 206.51, as set forth below.

D. Changes in Independent Accountants; Services and Fees of Independent Auditors

1. The Commission amended its rules to require disclosure of whether a decision to change the independent accounts of registrant was recommended or approved by the audit or similar committee of the board of directors. SEC Rel. No. 34–14808, 43 **Federal Register** 24288 (June 5, 1978).

Currently, Item 4 of Form F–3 (Current Report), 12 CFR § 206.43, requires State member bank to report changes in its independent accountant, including the date of change, reports of disagreements with the former accountant, descriptions of adverse opinions by the former accountant, and a letter from the former accountant commenting on the information submitted by the Bank in response to Item 4. Item 8 of Form F–5 (Proxy Statement), 12 CFR § 206.51, requires the reporting bank to identify the accountant selected for the current year and, if different, for the fiscal year most recently completed, and to describe changes in accountants and disagreements with accountants that have occurred since the most recent annual meeting, including views of the accountant that conflict with the bank's view of the disagreement.

2. The Commission also has adopted amendments to its rules requiring disclosure in proxy statements of (1) services provided during the last fiscal year by a principal independent accountant, the percentage relationship which the aggregate fees for all non-audit services bear to the audit fee and the percentage relationship that the fees for each non-audit service bear to the audit fees; and (2) whether the board of directors or its audit or similar committee has approved each such service. SEC Release No. 34–14904, 43 **Federal Register** 29110 (July 6, 1978).

Currently, Item 8 of Form F–5 (Proxy Statement), 12 CFR 206.51, does not specifically require the disclosure of information regarding the provision of and fees concerning non-financial services performed for a state member bank by its independent accountants or the approval of such services by the bank's board of directors.

The Board believes that the rule changes adopted by the SEC are beneficial and would adopt the amendments substantially in the form adopted by the SEC by amending Item 4 of Form–F–3 (Current Report), 12 CFR 206.43, and Item 8 of Form F–5 (Proxy Statement), 12 CFR 206.51, as set forth below.

E. Simplification and Other Commission Amendments

The Commission has amended its regulations by adopting in 1977 and revising thereafter a new regulation, Regulation S–K, that assembles in one place the reporting requirements that are applicable to various forms. SEC Rel. No. 5893, 42 **Federal Register** 65554 (December 30, 1977); SEC Rel. No. 34–15006, 43 **Federal Register** 34402 (August 3, 1978) and SEC Rel. Nos. 34–15380 and 34–15418, 43 **Federal Register** 58181, 60418 (December 13 and 27, 1978).

The Board has determined not to adopt at this time a separate regulation substantially similar to Regulation S–K. It believes the same effect may be achieved by proposing common items to be contained in its Form F–5 (Proxy Statement), 12 CFR 206.51, and cross-referenced thereto from other forms. Such cross-references are found in the proposed amendments to Forms F–1 (Registration Statement), F–2 (Annual Report), and F–3 (Current Report), 12 CFR 206.41, 206.42 and 206.43, respectively, as set forth below.

In addition, in connection with this proposal the Board has simplified certain of the Commission amendments, such as those relating to Management Remuneration in Item 7 of Form F–5 (Proxy Statement), 12 CFR 206.51, by shortening and rewriting certain provisions. The Board is considering whether to extend this simplification technique to the whole of Regulation F if it determines that it will produce significant benefits to banks. Therefore, the Board solicits comments from the public and the banks regarding such simplification of Regulation F.

Finally, the Commission has proposed other amendments to its rules and regulations. Many of these changes, such as those relating to industry segment reporting, for example, are not directly applicable in the banking industry and therefore have not been proposed for adoption by the Board.

Proposed Amendments

(1) Section 206.4(h) of Regulation F would be amended by revising subsections (3)–(5) and by adding subsection (6)–(8) to read as follows:

§ 206.4 Registration statements and reports.

* * * * *

(h) * * *

(3) (i) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a member State bank, of a class which is registered pursuant to Section 12 of the Act, *provided,* such term shall not include securities of a class of nonvoting securities, is directly or indirectly the beneficial owner of more than 5 percent of such class shall, within 10 days after such acquisition, send to the bank at its principal executive office, by registered or certified mail, and to each exchange where the security is traded, and file with the Board, a statement containing the information required by Form F–11. Eight copies of the statement, including all exhibits, shall be filed with the Board.

(ii)(A) A person who would otherwise be obligated under paragraph (h)(3)(i) of this section to file a statement on Form F–11, in lieu thereof, file with the Board within 45 days after the end of the calendar year in which such person became so obligated, eight copies, including all exhibits, of a short form statement on Form F–11A and send one copy each of such form to the bank at its principal executive office, by registered or certified mail, and to the principal national securities exchange where the security is traded: *Provided,* That it shall not be necessary to file a Form F–11A unless the percentage of the class of equity security specified in paragraph (h)(3)(i) of this section beneficially owned as of the end of the calendar year is more than 5 percent: And *provided further,* That:

(*1*) Such person has acquired such securities in the ordinary course of his business and not with the purpose nor with the effect of changing or influencing the control of the bank, nor in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to § 206.4(h)(5)(i); and

(*2*) Such person is:

(*i*) A broker or dealer registered under section 15 of the Act;

(*ii*) A bank as defined in section 3(a)(6) of the Act;

(*iii*) An insurance company as defined in section 3(a)(19) of the Act:

(*iv*) An investment company registered under Section 8 of the Investment Company Act of 1940;

(*v*) An investment adviser registered under Section 203 of the Investment Advisers Act of 1940;

(*vi*) An employee benefit plan, or pension fund which is subject to the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA") or an endowment fund;

(*vii*) A parent holding company, provided the aggregate amount held directly by the parent, and directly and indirectly by its subsidiaries which are

not persons specified in paragraphs (h)(3)(ii)(A)(*2*)(*i*) through (*vii*) of this section, does not exceed 1 percent of the securities of the subject class;

(*viii*) A group, provided that all the members are persons specified in paragraphs (h)(3)(ii)(A)(*2*)(*i*) through (*vii*) of this section; and

(*3*) Such person has promptly notified any other person (or group within the meaning of section 13(d)(3) of the Act) on whose behalf it holds, on a discretionary basis, securities exceeding 5 percent of the class, of any acquisition or transaction on behalf of such other person that might be reportable by that person under section 13(d) of the Act. This paragraph only requires notice to the account owner of information that the filing person reasonably should be expected to know and that would advise the account owner of an obligation he may have to file a statement pursuant to section 13(d) of the Act or an amendment thereto.

(b) Any person relying on § 206.4(h)(3)(ii)(A) and § 206(h)(4)(ii)(B) of this section shall, in addition to filing any statements required thereunder, file a statement on Form F–11A, within ten days after the end of the first month in which such person's direct or indirect beneficial ownership exceeds 10 percent of a class of equity securities specified in § 206.4(h)(3)(i) computed as of the last day of the month, and thereafter within ten days after the end of any month in which such person's beneficial ownership of securities of such class, computed as of the last day of the month, increases or decreases by more than 5 percent of such class of equity securities. Eight copies of such statement, including all exhibits, shall be filed with the Board and one each sent, by registered or certified mail, to the bank at its principal executive office and to the principal national securities exchange where the security is traded. Once an amendment has been filed reflecting beneficial ownership of 5 percent or less of the class of securities, no additional filings are required by this paragraph (ii)(B) unless the person thereafter becomes the beneficial owner of more than 10 percent of the class and is required to file pursuant to this provison.

(c)(*1*) Notwithstanding paragraphs (L)(3)(ii)(A) and (ii)(B) and (h)(4)(ii) of this section, a person shall immediately become subject to (h)(3)(i) and 206.4(h)(4)(i) of this section and shall promptly, but not more than ten days later, file a statement on Form F–11 if such person:

(i) Has reported that it is the beneficial owner of more than 5 percent of a class of equity securities in a statement on Form F–11A pursuant to paragraph (ii)(A) or (ii)(B), or is required to report such acquisition but has not yet filed the form;

(ii) Determines that it no longer has acquired or holds such securities in the ordinary course of business or not with the purpose nor with the effect of changing or influencing the control of the bank, nor in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to § 206.4(h)(5)(ii); and

(*iii*) Is at that time the beneficial owner of more than 5 percent of a class of equity securities described in § 206.4(h)(3)(i).

(*2*) For the ten-day period immediately following the date of the filing of a Form F–11 pursuant to this paragraph(h)(3)(ii)(C), such person shall not: (i) Vote or direct the voting of the securities described in paragraph(h)(3)(ii)(C)(*1*)(*i*); nor, (*ii*) Acquire an additional beneficial ownership interest in any equity securities of the bank nor of any person controlling the bank.

(D) Any person who has reported an acquisition of securities in a statement on Form F–11A pursuant to paragraph (ii)(A) or (ii)(B) and thereafter ceases to be a person specified in paragraph (ii)(A)(2) shall immediately become subject to § 206.4(h)(3)(i) and § 206.4(h)(4)(i) and shall file, within ten days thereafter, a statement on Form F–11 in the event such person is a beneficial owner at that time of more than 5 per cent of the class of equity securities.

(iii) Any person who, as of December 31, 1978, or as of the end of any calendar year thereafter, is directly or indirectly the beneficial owner of more than 5 per cent of any equity security of a class specified in paragraph (h)(3)(i) of this section and who is not required to file a statement under paragraph (h)(3)(i) of this section by virtue of the exemption provided by Section 13(d)(6)(A) or (B) of the Act, or because such beneficial ownership was acquired prior to December 20, 1970, or because such person otherwise (except for the exemption provided by section 13(d)(6)(c) of the Act) is not required to file such statement, shall, within 45 days after the end of the calendar year in which such person became obligated to report under this paragraph, send to the bank at its principal executive office, by registered or certified mail, and file with the Board, a statement containing the information required by Form F–11A. Eight copies of the statement, including all exhibits, shall be filed with the Board.

(iv) For the purposes of sections 13(d) and 13(g), any person, in determining the amount of outstanding securities of a class of equity securities, may rely upon information set forth in the bank's most recent quarterly or annual report, and any current report subsequent thereto, filed with the Board pursuant to this Act, unless he knows or has reason to believe that the information contained therein is inaccurate.

(v)(A) Whenever two or more persons are required to file a statement containing the information required by Form F–11 or Form F–11A with respect to the same securities, only one statement need be filed, provided that:

(*1*) Each person on whose behalf the statement is filed is individually eligible to use the Form on which the information is filed;

(*2*) Each person on whose behalf the statement is filed is responsible for the timely filing of such statement and any amendments thereto, and for the completeness and accuracy of the information concerning such person contained therein; such person is not responsible for the completeness or accuracy of the information concerning the other persons making the filing, unless such person knows or has reason to believe that such information is inaccurate; and

(*3*) Such statement identifies all such persons, contains the required information with regard to each such person, indicates that such statement is filed on behalf of all such persons, and includes, as an exhibit, their agreement in writing that such a statement is filed on behalf of each of them.

(B) A group's filing obligations may be satisfied either by a single joint filing or by each of the group's members making an individual filing. If the group's members elect to make their own filings, each such filing should identify all members of the group but the information provided concerning the other persons making the filing need only reflect information which the filing person knows or has reason to know.

(4)(i) *Form F–11*—If any material change occurs in the facts set forth in the statement required by § 206.4(h)(3)(i) including, but not limited to, any material increase or decrease in the percentage of the class beneficially owned, the person or persons who were required to file such statement shall promptly file or cause to be filed with the Board and send or cause to be sent to the bank at its principal executive office, by registered or certified mail, and to each exchange on which the

security is traded an amendment disclosing such change. An acquisition or disposition of beneficial ownership of securities in an amount equal to 1 per cent or more of the class of securities shall be deemed "material" for purposes of this rule; acquisitions or dispositions of less than such amounts may be material, depending upon the facts and circumstances. The requirement that an amendment be filed with respect to an acquisition which materially increases the percentage of the class beneficially owned shall not apply if such acquisition is exempted by Section 13(d)(6)(B) of the Act. Eight copies of each such amendment shall be filed with the Board.

(ii) *Form F–11A*—Notwithstanding paragraph (h)(4)(i) of this section, and provided that the person or persons filing a statement pursuant to § 206.4(h)(3)(ii) continues to meet the requirements set forth therein, any person who has filed a short form statement on Form F–11A shall amend such statement within 45 days after the end of each calendar year to reflect, as of the end of the calendar year any changes in the information reported in the previous filing on that Form, or if there are no changes from the previous filing, a signed statement to that effect under cover of Form F–11A. Eight copies of such amendment, including all exhibits, shall be filed with the Board and one each sent, by registered or certified mail, to the bank at its principal executive office and to the principal national securities exchange where the security is traded. Once an amendment has been filed reflecting beneficial ownership of 5 per cent or less of the class of securities, no additional filings are required unless the person thereafter becomes the beneficial owner of more than 5 per cent of the class and is required to file pursuant to § 206.4(h)(3).

Note.— For persons filing a short form statement pursuant to § 206.4(h)(3)(ii), see also § 206.4(h)(3)(iii), (iv) and (v).

(5)(i) For the purposes of section 13(d) and 13(g) of the Act, a beneficial owner of a security includes any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(A) voting power which includes the power to vote, or to direct the voting of, such security; and/or

(B) Investment power which includes the power to dispose or to direct the disposition of such security.

(ii) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement or any other contract, arrangement, or device with the purpose or effect of divesting such person of beneficial ownership of a security or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of Section 13(d) or 13(g) of the Act shall be deemed for purposes of such sections to be the beneficial owner of such security.

(iii) All securities of the same class beneficially owned by a person, regardless of the form which such beneficial ownership takes, shall be aggregated in calculating the number of shares beneficially owned by such person.

(iv) Notwithstanding the provisions of paragraphs (h)(5) (i) and (iii) of this section:

(A)(*1*) A person shall be deemed to be the beneficial owner of a security, subject to the provisions of paragraph (h)(5)(ii) of this section, if that person has the right to acquire beneficial ownership of such security, as defined in § 206.4(h)(3)(i), within 60 days, including but not limited to any right to acquire: (*i*) through the exercise of any option, warrant, or right; (*ii*) through the conversion of a security; (*iii*) pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or (*iv*) pursuant to the automatic termination of a trust, discretionary account or similar arrangement; provided, however, any person who acquires a security or power specified in paragraphs (h)(5)(iv)(A)(*1*)(*i*), (*ii*) or (*iii*) above, with the purpose or effect of changing or influencing the control of the bank, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the securities which may be acquired through the exercise or conversion of such security or power. Any securities not outstanding which are subject to such options, warrants, rights or conversion privileges shall be deemed to be outstanding securities of the class owned by such person but shall not be deemed to be outstanding for the purpose of computing the percentage of the class by any other person.

(*2*) Paragraph (A)(*1*) remains applicable for the purpose of determining the obligation to file with respect to the underlying security even though the option, warrant, right or convertible security is of a class of equity security, as defined in § 206.4(h)(3)(i) and may therefore give rise to a separate obligation to file.

(B) A member of a national securities exchange shall not be deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because such member is the record holder of such securities and, pursuant to the rules of such exchange may direct the vote of such securities, without instruction, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted, but is otherwise precluded by the rules of such exchange from voting without instruction.

(C) A person who in the ordinary course of business is a pledgee of securities under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged securities until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged securities will be exercised, provided that:

(*1*) The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the bank, nor in connection with any transaction having such purpose or effect, including any transaction subject to § 206.4(h)(5)(ii);

(*2*) The pledgee is a person specified in § 206.4(h)(3)(ii)(A)(*2*), including persons meeting the conditions set forth in paragraph (h) thereof; and

(*3*) The pledgee agreement, prior to default, does not grant to the pledgee:

(i) The power to vote or to direct the vote of the pledged securities; or

(ii) The power to dispose or direct the disposition of the pledged securities, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended subject to Regulation T (12 CFR 220.1 to 220.8) and in which the pledgee is a broker or dealer registered under section 15 of the Act.

(D) A person engaged in business as an underwriter of securities who acquires securities through his participation in good faith in a firm commitment underwriting registered under the Securities Act of 1933 shall not be deemed to be the beneficial owner of such securities until the expiration of 40 days after the date of such acquisition.

(6) Any person may expressly declare in any statement filed that the filing of such statement shall not be construed as an admission that such person is, for the purposes of section 13(d) or 13(g) of the Act, the beneficial owner of any securities covered by the statement.

(7)(i) A person who becomes a beneficial owner of securites shall be deemed to have acquired such securities for purposes of section 13(d)(1) of the Act, whether such acquisition was through purchase or otherwise. However, executors or administrators of a decedent's estate generally will be presumed not to have acquired beneficial ownership of the securities in the decedent's estate until such time as such executors or administrators are qualified under local law to perform their duties.

(ii)(A) When two or more persons agree to act together for the purpose of acquiring, holding, voting or disposing of equity securities of a bank, the group formed thereby shall be deemed to have acquired beneficial ownership, for purposes of section 13(d) and 13(g) of the Act, as of the date of such agreement, of all equity securities of that bank beneficially owned by any such persons.

(B) Notwithstanding the previous paragraph, a group shall be deemed not to have acquired any equity securities beneficially owned by the other members of the group solely by virtue of their concerted actions relating to the purchase of equity securities directly from a bank in a transaction not involving a public offering; provided that:

(1) All the members of the group are persons specified in § 206.4(h)(3)(ii)(A)(2);

(2) The purchase is in the ordinary course of each member's business and not with the purpose nor with the effect of changing or influencing control of the bank, nor in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to § 206.4(h)(5)(ii);

(3) There is no agreement among or between any members of the group to act together with respect to the bank or its securities except for the purpose of facilitating the specific purpose involved; and

(4) The only actions among or between any members of the group with respect to the bank or its securities subsequent to the closing date of the nonpublic offering are those which are necessary to conclude ministerial matters directly related to the completion of the offer or sale of the securites.

(8) The acquisition of securities of a bank by a person who, prior to such acquisition, was a beneficial owner of more than 5 per cent of the outstanding securities of the same class as those acquired shall be exempt from Section 13(d) of the Act, provided that:

(i) The acquisition is made pursuant to preemptive subscription rights in an offering made to all holders of securities of the class to which the preemptive subscription rights pertain;

(ii) Such person does not acquire additional securities except through the exercise of his pro rata share of the preemptive subscription rights; and

(iii) The acquisition is duly reported, if required, pursuant to Section 16(a) of the Act and the rules and regulations thereunder.

* * * * *

2. § 206.5(l) of Regulation F would be amended as follows:

§ 206.5 Proxy statements and other solicitations under section 14 of the Act.

(l) *Tender Offers* (1) No person, directly or indirectly by use of the mails or any means or instrumentality of interstate commerce or any facility of a national securities exchange or otherwise, shall make a tender offer for, or a request or invitation for tenders of any class of equity security, which is registered pursuant to Section 12 of the Act of any member State bank, if, after consummation thereof, such person would, directly or indirectly, be the beneficial owner of more than 5 percent of such class, unless, at the time copies of the offer or request or invitation ar first published or sent or given to security holders, such person has filed with the Board a statement containing the information and exhibits required by Form F–13. The definition of beneficial owner set forth in 206.4(h)(5) for the purposes of Section 13(d)(1) of the Act shall apply also for purposes of Section 14(d)(1) of the Act.

* * * * *

3. § 206.5(k) of Regulation F would be amended by adding a new paragraph to read as follows:

* * * * *

(5) If management intends to include in the proxy statement a statement in opposition to a proposal received from a proponent, it shall, not later than ten calendar days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to § 206.5(f) or, in the event that the proposal must be revised to be includable, not later than five calendar days after receipt by the bank of the revised proposal, promptly forward to the proponent a copy of the statement in opposition to the proposal. In the event the proponent believes that the statement in opposition contains materially false or misleading statements within the meaning of § 206.5(h) and the proponent wishes to bring this matter to the attention of the Board, the proponent should promptly provide the staff with a letter setting forth the reasons for this view and at the same time promptly provide managment with a copy of such letter.

§ 206.4 [Amended]

4. § 206.41, Form F–1, Item 8, Directors and Officers, would be amended as follows:

Item 8—Directors and Officers

The information required by Item 6(a)–(f) of § 206.51 shall be reported pursuant to this Item.

5. § 206.41. Form F–1 (Registration Statement), Item 10, Remuneration of Directors and Officers, and Item 13, Interest of Management and Others in Certain Transactions, would be combined into a new Item 10, Remuneration and Other Transactions With Management and Others, and would read as follows:

Item 10—Remuneration and other transactions with management and others

(1) The information required by Item 7(a), (b), (d), (e), (f) and (g) of § 206.51 shall be reported pursuant to this Item. The information required by § 206.51, Item 7(d), (e) and (f) shall be reported for the past three years.

(b) If the bank was organized within the past five years, furnish the following information:

(1) State the names of the promoters, the nature and amount of anything of value (including money, property, contracts, options or rights of any kind) received or to be received by each promoter directly or indirectly from the bank, and the nature and amount of any assets, services or other consideration therefor received or to be received by the bank.

(2) As to any assets acquired or to be acquired by the bank from a promoter, state the amount at which acquired or to be acquired and the principle followed, or to be followed in determining the amount. Identify the persons making the determination and state their relationship, if any, with the bank or any promoter. If the assets were acquired by the promoter within two years prior to their transfer to the bank, state the cost thereof to the promoter.

6. 206.41, Form F–1 (Registration Statement), Item 11, Management Options to Purchase Securities, would be amended as follows:

Item 11—Management Options to Purchase Securities

The information required by Item 7(c) of § 206.51 shall be reported pursuant to this Item.

7. § 206.41, Form F–1 (Registration Statement), Item 12, Principal Holders of Securities, would be retitled, Security Ownership of Certain Beneficial

Ownership and Management, and would be amended as follows:

Item 12—Security Ownership of Certain Beneficial Owners and Management

The information required by Items 5(d), (e) and (g) of § 206.51, shall be reported pursuant to this Item.

8. § 206.41, Form F–1 (Registration Statement), Items 14–20 would be redesignated Items 13–19, respectively.

§ 206.42 [Amended]

9. § 206.42, Form F–2 (Annual Report), Item 6, Directors of Bank, would be amended as follows:

Item 6—Directors of Bank

See General Instruction G. Set forth the same information as is required by Item 6(a), (d),(e) and (f) of Form F–5.

10. In § 206.42, Form F–2 (Annual Report), Item 7, Remuneration of Directors and Officers, would be revised to read as follows:

Item 7—Remuneration of Director and Officers and Related Matters

See General Instruction G. Set forth the same information as to remuneration of officers and directors and their transactions with management and others as is required to be furnished by Item 7(a) and (b) of Form F–5.

11. In § 206.42, Form F–2 (Annual Report), Item 11, Officers of the Bank, would be revised to read as follows:

Item 11—Officers of Bank

See General Instruction G. Set forth the same information as to officers of bank as is required to be furnished by Item 6 of Form F–5.

12. In § 206.42, Form F–2 (Annual Report), Item 13, Options Granted to Management to Purchase Securities, would be revised to read as follows:

Item 13—Options Granted to Management To Purchase Securities

See General Instruction G. Set forth the same information as to options granted to management to purchase securities as is required to be furnished by Item 7(c) of Form F–5.

13. In § 206.42, Form F–2 (Annual Report), Item 14, Interest of Management and Others in Certain Transactions, would be revised to read as follows:

Item 14—Interest of Management and Others in Certain Transactions

See General Instruction G. Set forth the same information as to the interest of management and others in certain transactions as is required to be furnished by Item 7(d), (e) and (f) of Form F–5.

§ 206.43 [Amended]

14. Section 206.43, Form F–3 (Current Report), Item 4, Changes in Bank's Accountant, would be amended by adding a new paragraph (e) which would read as follows:

(e) State whether the decision to change accountants was recommended or approved by:

(1) Any audit or similar committee of the Board of Directors, if the bank has such a committee; or

(2) The Board of Directors, if the bank has no such committee.

15. Section 206.43, Form F–3 (Current Report), would be amended by adding a new Item 5, Resignation of Bank's Directors, which would read as follows:

Item 5—Resignations of bank's Directors

(a) If a director has resigned or declined to stand for re-election to the Board of Directors since the date of the last annual meeting of shareholders because of a disagreement with the bank on any matter relating to the bank's operations, policies or practices, and if the director has furnished the bank with a letter describing such disagreement and requesting that the matter be disclosed, the bank shall state the date of such resignation or declination to stand for re-election and summarize the director's description of the disagreement.

(b) If the bank believes that the description provided by the director is incorrect or incomplete, it may include a brief statement presenting its views of the disagreement.

(c) The bank shall file a copy of the director's letter as an exhibit with all copies of this Form F–3.

16. Section 206.43, Form F–3 (Current Report), Present Item 5, Other Materially Important Events, would be renumbered Item 6. Present Item 6, Financial Statements and Exhibits, would be renumbered Item 7, and would read as follows:

Item 7—Financial Statements and Exhibits

* * * * *

(b) *Exhibits.* Subject to the rules as to incorporation by reference, the following documents shall be filed as exhibits to this report.

1. Copies of any plan of acquisition or disposition described in answer to Item 2, including any plan of reorganization, readjustment, exchange, merger, consolidation or succession in connection therewith.

2. Letters from directors furnished pursuant to Item 5.

§ 206.44 [Amended]

17. § 206.44, Form F–4 (Quarterly Report), Item 7, Submission of Matters to a Vote of Security Holders, would be amended by adding a new paragraph (d) and Instruction 6 that would read as follows:

Item 7—Submission of Matters to a Vote for Security Holders

* * * * *

(D) Describe the terms of any settlement between the bank and any other participant (as defined in § 206.5(i)) terminating any solicitation subject to § 206.5(i) including the cost or anticipated cost to the bank.

Instructions * * *

6. If the bank has furnished to its security holders proxy soliciting material containing the information called for by paragraph (d), the paragraph may be answered by reference to the information contained in such material.

18. Section 206.47, Form F–11, would be revised as follows:

§ 206.47 Form for acquisition statement filed pursuant to § 206.4(h)(3) and amendments thereto filed pursuant to § 206.4(h)(4) of regulation F.

Board of Governors of the Federal Reserve System

Form F–11

Acquisition statement to be filed pursuant to § 206.4(h)(3) or § 206.4(h)(4) of Regulation F (Amendment No.).

_____

(Name and Address of Bank)

_____

(Title of Class of Securities)

_____

(CUSIP Number)

_____

(Name, Address and Telephone Number or Person Authorized to Receive Notices and Communications)

_____

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Form F–11A, and is filing this form because of § 206.4(h)(3) (ii)(C) or (D), check the following box [ ].

Note: Eight copies of this form, including all exhibits, should be filed with the Board. See § 206.4(h)(3)(i) for other parties to whom copies are to be sent.

Special Instructions for Complying With Form F–11

Under Sections 13(d) and 23 of the Securities Exchange Act of 1934 and the rules and regulations thereunder, the Board is authorized to solicit the information required to be supplied by this form by certain security holders of certain banks.

Disclosure of the information specified in this schedule is mandatory, except for Social Security or I.R.S. identification numbers, disclosure of which is voluntary. The information will be used for the primary purpose of determining the disclosing the holdings of certain beneficial owners of certain equity securities. This statement will be made a matter of public record. Therefore, any information given will be available for inspection by any member of the public.

Failure to disclose the information requested by this schedule, except for Social Security or I.R.S. identification numbers, may result in civil or criminal action against the persons involved for violation of the Federal securities laws and rules promulgated thereunder.

General Instructions

A. The item numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

B. Information contained in exhibits to the statement may be incorporated by reference in answer or partial answer to any item or sub-item of the statement unless it would render such answer incomplete, unclear or confusing. Matter incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement where the information is required.

C. If the statement is filed by a general or limited partnership, syndicate, or other group, the information called for by Items 2–6, inclusive, shall be given with respect to (i) each partner of such general partnership; (ii) each partner who is demonstrated as a general partner who functions as a general partner of such limited partnership; (iii) each member of such syndicate or group; and (iv) each person controlling such partner or member. If the statement is filed by a corporation or if a person referred to in (i), (ii), (iii) or (iv) of this instruction is a corporation, the information called for by the above mentioned items shall be given with respect to (a) each executive officer and director of such corporation; (b) each person controlling such corporation; and (c) each executive officer and director of any corporation or other person ultimately in control of such corporation. Executive officer shall mean the president, security, treasurer, and any vice president in charge of a principal business function (such as sales, administration or finance) and any other person who performs or has the power to perform similar policy making functions for the corporation.

Item 1—Security and Bank

State the title of the class of equity securities to which this statement relates and the name and address of the principal office of the bank.

Item 2—Identity and Background

If the person filing this statement or any person enumerated in Instruction C of this statement is a corporation, general partnership, limited partnership, syndicate or other group of persons, state its name, the state or other place of its organization, its principal business, the address of its principal business, the address of its principal office and the information required by (d) and (e) of this item. If the person filing this statement or any person enumerated in Instruction C is a natural person, provide the information specified in (a) through (f) of this Item with respect to such person(s).

(a) Name;

(b) Residence or business address;

(c) Present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is conducted;

(d) Whether or not, during the last five years, such person has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give the dates, nature of conviction, name and location of court, any penalty imposed, or other disposition of the case.

(e) Whether or not, during the last five years, such person was a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violation of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws; and, if so, identify and describe such proceedings and summarize the terms of such judgment, decree or final order; and

(f) Citizenship.

Item 3—Source and Amount of Funds or Other Consideration

State the source and the amount of funds or other consideration used or to be used in making the purchases, and if any part of the purchase price is or will be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, trading or voting the securities, a description of the transaction and the names of the parties thereto. Where material, such information should also be provided with respect to prior acquisitions not previously reported pursuant to this regulation. If the source of all or any part of the funds is a loan made in the ordinary course of business by a bank, as defined in Section 3(a)(6) of the Act, the name of the bank shall not be made available to the public if the person at the time of filing the statement so requests in writing and files such request, naming such bank with the Board. If the securities were acquired other than by purchase, describe the method of acquisition.

Item 4—Purpose of Transaction

State the purpose or purposes of the acquisition of securities of the bank. Describe any plans or proposals which the reporting persons may have which related or would result in:

(a) The acquisition by any person of additional securities of the bank, or the disposition of securities of the bank;

(b) An extrordinary corporate transaction, such as a merger, reorganization or liquidation, involving the bank or any of its subsidiaries;

(c) A sale or transfer of a material amount of assets of the bank or of any of its subsidiaries;

(d) Any change in the present board of directors or management of the bank, including any plans or proposals to change the number of term of directors or to fill any existing vacancies on the board;

(e) Any material change in the present capitalization or dividend policy of the bank;

(g) Changes in the bank's charter, bylaws or instruments corresponding thereto or other actions which may impede the acquisition of control of the bank by any person;

(h) Causing a class of securities of the bank to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association;

(i) A class of equity securities of the bank becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Act; or

(j) Any action similar to any of those enumerated above.

Item 5—Interest in Securities of the Bank

(a) State the aggregate number and percentage of the class of securities identified pursuant to Item 1 (which may be based on the number of securities outstanding as contained in the most recently available filing with the Board by the bank unless the filing person has reason to believe such information is not current) beneficially owned (identifying those shares which there is a right to acquire) by each person named in Item. 2. The above mentioned information should also be furnished with respect to persons who, together with any of the persons named in Item 2, comprise a group within the meaning of Section 13(d)(3) of the Act;

(b) For each person named in response to paragraph (a), indicate the number of shares as to which there is sole power to vote or to direct the vote, shared power to vote or to direct the vote, sole power to dispose or to direct the disposition, or shared power to dispose or to direct the disposition. Provide the applicable information required by Item 2 with respect to each person with whom the power to vote or to direct the vote or to dispose or direct the disposition is shared;

(c) Describe any transactions in the class of securites reported on that were effected during the past sixty days or since the most recent filing on Form F–11, whichever is less, by the persons named in response to paragraph (a).

Instruction. The description of a transaction required by Item 5(c) shall include, but not necessarily be limited to: (1) the identity of the person covered by Item 5(c) who effected the transaction; (2) the date of the transaction; (3) the amount of securities involved; (4) the price per share or unit; and (5) where and how the transaction was effected.

(d) If any other person is known to have the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, such securities, a statement to that effect should be included in response to this item and, if such interest relates to more than five percent of the class, such person should be identified.

(e) If applicable, state the date on which the reporting person ceased to be the beneficial owner of more than five percent of the class of securities.

Instruction. For computations regarding securities which represent a right to acquire an underlying security, see § 206.4(h)(5)(iv) and the note thereto.

Item 6—Contracts, Arrangement, Understandings or Relationships With Respect to Securities of the Bank

Describe any contracts, arrangements, understandings or relationships (legal or otherwise) among the persons named in Item 2 and between such persons and any person with respect to any securities of the bank, including but not limited to transfer or voting of any of the securities, finder's fees, joint ventures, loan or option arrangements, puts or calls, guarantees or profits, division of profits or losses, or the giving or withholding of proxies, and name the persons with whom such contracts, arrangements, understandings or relationships have been entered into. Include such information for any of the securities that are pledged or otherwise subject to a contingency the occurrence of which would give another person voting power or investment power over such securities, except that disclosure of standard default and similar provisions contained in loan agreements need not be included.

Item 7—Material To Be Filed as Exhibits

The following shall be filed as exhibits: Copies of written agreements relating to the filing of joint acquisition statements as required by § 206.4(h)(g)(v) and copies of all written agreements, contracts, arrangements, understandings, plans, or proposals relating to: (1) The borrowing of funds to finance the acquisition as disclosed in Item 3; (2) the acquisition of bank control, liquidation, sale of assets, merger, or change in business or corporate structure, or any other matter as disclosed in Item 4; and (3) the transfer or voting of the securities, finder's fees, joint ventures, options, puts, calls, guarantees of loans, guarantees against loss or of profit, or the giving or withholding of any proxy as disclosed in Item 6.

Signature

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct:

Date

Signature

Name/Title

The original statement shall be signed by each person on whose behalf the statement is filed or his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer or general partner of the filing person), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement, provided, however, that a power of attorney for this purpose which is already on file with the Board may be incorporated by reference. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

Attention: Intentional misstatements or omissions of fact costitute Federal criminal violations (See 18 U.S.C. 1001).

19. Proposed Form F–11A would be added to section 206.48 and would read as follows:

§ 206.48 Short Form for statement filed ursuant to section 206.4(h)(3) and amendments thereto filed pursuant to § 206.4(h)(4) of Regulation F (Form F–11A).

Board of Governors of the
Federal Reserve System
Washington, D.C. 20551.

FORM F–11A

Sort Form Ownership Statement to be Filed Pursuant to § 206.4(h)(3) or 206.4(h)(4)

(Amendment No.)

(Name and Bank)

(Title of Class of Securities)

(CUSIP Number)

Special Instructions for Complying With Form F–11A

Under Sections 13(d), 13(g), and 23 of the Securities Exchange Act of 1934 and the rules and regulations thereunder, the Board is authorized to solicit the information required to be supplied by this schedule by certain security holders of certain banks.

Disclosure of the information specified in this schedule is mandatory, except for Social Security or I.R.S. identification numbers the disclosure of which is voluntary. The information will be used for the primary purpose of determining and disclosing the holdings of certain beneficial owners of certain equity securities. This statement will be made a matter of public record. Therefore, any information given will be available for inspection by any member of the public.

Failure to disclose the information requested by this schedule, except for Social Security or I.R.S. identification numbers, may result in civil or criminal action against the persons involved for violation of the Federal securities laws and rules promulgated thereunder.

General Instructions

A. Statements containing the information required by this Form shall be filed not later than February 14 following the calendar year covered by the statement or within the time specified in § 335.4(h)(2)(ii)(B), if applicable.

B. Information contained in a form which is required to be filed by the Securities and Exchange Commission's rules under Section 13(f) of the Act [15 U.S.C. 78m(f)] for the same calendar year as that covered by a statement on this Form may be incorporated by reference in response to any of the items of this Form. If such information is incorporated by reference in this Form, copies of the relevant pages of such form shall be filed as an exhibit to this Form.

C. The item numbers and captions of the items shall be included but the text of the items is to be omitted. The answers to the items shall be so prepared as to indicate clearly the coverage of the items without referring to the text of the items. Answer every item. If an item is inapplicable or the answer is in the negative, so state.

Item 1(a) Name of Bank:

Item 1(b) Address of Bank's Principal Office:

Item 2(a) Name of Person Filing:

Item 2(b) Address of Principal Business Office or, if none, Residence:

Item 2(c) Citizenship:

Item 2(d) Title of Class of Securities:

Item 3 If this statement is filed pursuant to § 206.4(h)(3)(i) or 206.4(h)(4)(ii) check whether the person filing is a:

(a) [ ] Broker or Dealer registered under Section 15 of the Act.

(b) [ ] Bank as defined in Section 3(a)(6) of the Act.

(c) [ ] Insurance Company as defined in Section 3(a)(19) of the Act.

(d) [ ] Investment Company registered under Section 8 of the Investment Company Act.

(e) [ ] Investment Adviser registered under Section 203 of the Investment Advisers Act of 1940.

(f) [ ] Employee Benefit Plan, Pension Fund which is subject to the provisions of the Employee Retirement Income Security Act of 1974, or Endowment Fund.

(g) [ ] Parent Holding Company, in accordance with § 206.4(h)(3)(ii)(A)(2)(g) (Note: See Item 7).

(h) [ ] Group, in accordance with § 206.4(h)(3)(ii)(A)(2)(h).

Item 4—Ownership

If the percent of the class owned, as of December 31 of the year covered by the statement, or as of the last day of any month described in § 206.4(h)(3)(B) if applicable, exceeds five percent, provide the following information as of that date and identify those shares for which there is a right to acquire.

(a) Amount beneficially owned.

(b) Per cent of class.

(c) Number of shares as to which such person has

(i) Sole power to vote or to direct the vote.

(ii) Shared power to vote or to direct the vote.

(iii) Sole power to dispose or to direct the disposition of.

(iv) Shared power to dispose or to direct the disposition of.

Instruction: for computations regarding securities which represent a right to acquire an underlying security see § 206.4(h)(5)(iv)(A).

Item 5—Ownership of Five Per Cent or Less of a Class

If this statement is being filed to report the fact that as of the date hereof the reporting person has ceased to be the beneficial owner of more than five per cent of the class of securities, check the following [ ].

Instructions: Dissolution of a group requires a response to this item.

Item 6—Ownership of More Than Five Per Cent on Behalf of Another Person

If any other person is known to have the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, such securities, a statement to that effect should be included in response to this item and, if such interest relates to more than five per cent of the class, such person should be identified. A listing of the shareholders of an investment company registered under the Investment Company Act of 1940 or the beneficiaries of employee benefit plan, pension fund or endowment fund is not required.

Item 7— Identification and Classification of the Subsidiary Which Acquired the Security Being Reported on by the Parent Holding Company

If a parent holding company has filed this schedule, pursuant to § 206.4(h)(3)(ii)(A)(2)(g), so indicate under Item 3(g) and attach an exhibit stating the identity and the Item 3 classification of the relevant subsidiary. If a parent holding company has filed this schedule pursuant to § 206.4(h)(2)(ii), attach an exhibit stating the identification of the relevant subsidiary.

Item 8—Identification and Classification of Members of the Group

If a group has filed this schedule pursuant to § 206.4(h)(3)(ii)(A)(2)(h), so indicate under Item 3(h) and attach an exhibit stating the identity and Item 3 classification of each member of the group. If a group has filed this schedule pursuant to § 206.4(h)(3)(iii), attach an exhibit stating the identity of each member of the group.

Item 9—Notice of Dissolution of Group

Notice of dissolution of a group may be furnished as an exhibit stating the date of the dissolution and that all further filings with respect to transactions in the security reported on will be filed, if required, by members of the group in their individual capacity. See Item 5.

Item 10—Certification

The following certification shall be included if the statement is filed pursuant to § 206.4(h)(3)(ii).

By signing below I certify that, to the best of my knowledge and belief, the securities referred to above were acquired in the ordinary course of business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the bank and were not acquired in connection with or as a participant in any transaction having such purposes or effect.

Signature

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date

Signature

Name/Title

The orignial statement shall be signed by each person on whose behalf the statement is filed, or by his authorized representative. If the statement is signed on behalf of a person by his authorized representative (other than an executive officer or general partner of the filing person), evidence of the representative's authority to sign on behalf of such person shall be filed with the statement. The name and any title of each person who signs the statement shall be typed or printed beneath his signature.

Note.—Eight copies of this statement, including all exhibits, should be filed with the Board.

§ 206.5 [Amended]

20. § 206.51, Form F–5 (Proxy Statement), Item 3, Persons Making the Solicitation, would be amended as follows:

Item 3—Persons Making the Solicitation

(a) * * *
(b) * * *
(6) If any such solicitation is terminated pursuant to a settlement between the bank and any other participant in such solicitation, describe the terms of such settlement, including the cost or anticipated cost thereof to the bank.

Instructions. 1. * * *

2. The information required pursuant to paragraph (b)(6) of this Item should be included in any amended or revised proxy statement or other soliciting material relating to the same meeting or subject matter furnished to security holders by the bank subsequent to the date of settlement.

21. § 206.51, Form F–5 (Proxy Statement), Item 5, Voting Securities and Principal Holders Thereof, would be amended as follows:

Item 5—Voting Securities and Principal Holders Thereof

(a)* * *
(b)* * *
(c)* * *
(d) *Security ownership of certain beneficial owners.* Furnish the following information as of the most recent practicable date in substantially the tabular form indicated, with respect to any person (including any "'group" as the term is used in Section 13(d)(3) of the Securities Exchange Act of 1934) who is known to the bank to be the beneficial owner of more than five per cent of any class of the bank's securities. Show in Column (3) the total number of shares beneficially owned and in Column (4) the percent of class so owned. Of the number of shares shown in Column (3), indicate by footnote or otherwise the amount of shares with respect to which such listed beneficial owner has the right to acquire beneficial ownership, as specified in § 206.4(h)(5)(iv)(A).

(1) Title of Class ——————
(2) Name and Address of Beneficial Owner —
(3) Amount of and Nature of Beneficial Ownership ——————
(4) Percent of Class ——————

(e) *Security ownership of management.* Furnish the following information, as of the most recent practicable date in substantially the tabular form indicated, as to each class of equity securities of the bank or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned by all directors and nominees, naming them, and directors and officers of the bank as a group, without naming them. Show in Column (2) the total number of shares beneficially owned and Column (3) the per cent of class so owned. Of the number of shares shown in Column (2), indicate, by footnote or otherwise the amount of shares with respect to which such persons have the right to acquire beneficial ownership as specified in § 206.4(h)(5)(iv)(A).

(1) Title of Class ——————
(2) Amount and Nature of Beneficial Ownership ——————
(3) Per cent of Class ——————

Instructions to Item 5(d)(e) and (f). 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the bank or its subsidiaries, plus securities deemed outstanding pursuant to § 206.4(h)(5)(iv)(A).

2. For the purposes of this item, beneficial ownership shall be determined in accordance with § 206.4(h)(5). Include such addititonal subcolumns or any other appropriate explanation of Column (3) necessary to reflect amounts as to which the beneficial owner has (1) sole voting power, (2) shared voting power, (3) sole investment power, and (4) shared investment power.

3. The bank shall be deemed to know the contents of any statement filed with the Board pursuant to section 13(d) of the Act. When applicable, a bank may rely upon information set forth in such statements unless the bank knows or has reason to believe that such information is not complete or accurate, or that a statement or amendment should have been filed and was not.

4. For purposes of furnishing information pursuant to paragraph (d), the bank may indicate the source and date of such information.

5. Where more than one beneficial owner is known to be listed for the same securities, appropriate disclosure should be made to avoid confusion.

(f) If, to the knowledge of the persons on whose behalf the solicitation is made, a change in control of the bank has occurred since the beginning of its last fiscal year, state the name of the person(s) who acquired such control, the amount and the source of the consideration used by such person(s), the basis of the control, the date and a description of the transaction(s) which resulted in the change of control, the percentage of voting securities of the bank now beneficially owned directly or indirectly by the person(s) who acquired control, and the identity of the person(s) from whom control was assumed. If the source of all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by Section 3(a)(6) of the Act,

the identity of such bank shall be omitted provided a request for confidentiality has been made pursuant to Section 13(d)(1)(B) of the Act by the person(s) who acquired control. In lieu thereof, the material shall indicate the identity of the bank so omitted and shall be filed separately with the Board. If the source of all or any part of the funds used to acquire control of the bank was a loan made by a bank as defined by section 3(a)(6) of the Act indicate whether there exists any agreement, arrangement or understanding pursuant to which the bank maintains or would maintain a correspondent deposit account at such lending bank.

Instructions. 1. State the terms of any loans or pledges obtained by the new control group for the purpose of acquiring control, and the names of the lenders or pledgees.

2. Any arrangement or understandings among members of both the former and new control groups and their associates with respect to the election of directors and other matters should be described.

(g) *Changes in Control.* Describe any arrangements, known to the bank, including any pledge by any person of securities of the bank or any of its parents, the operation of which may at a subsequent date result in a change in control of the bank. A description is not required of ordinary default provisions contained in any charter, trust indentures or other governing instruments relating to securities of the bank.

22. § 206.51, Form F–5 (Proxy Statement), Item 6, Nominees and Directors, would be retitled Directors and Officers, and amended as follows:

Item 6—Directors and Officers

If action is to be taken with respect to election of directors, furnish the following information in tabular form to the extent practicable, with respect to each person nominated for election as a director and each other person whose term of office as a director will continue after the meeting. However, if the solicitation is made on behalf of persons other than management, the information required need only be furnished as to nominees of the persons making the solicitation.

(a) *Identification of directors and officers.* List all directors and officers of the bank and all persons nominated or chosen to become directors or officers. Indicate all positions and offices with the bank held by each person named. State the age of the persons named, their terms of office, and the periods during which each such person has served. Briefly describe any arrangement or understanding between each director and officer and any other person pursuant to which such director or officer was selected to serve in that capacity. The term officer is defined in § 206.2.

Instructions

(1) Do not include any arrangements or understandings with directors or officers of the bank acting solely in their capacities as such.

2. No nominee or person chosen to become a director or who has not consented to act as such should be named in response to this item. In this regard, see § 335.5(d).

3. No information need be given respecting any director whose term of office as a director will not continue after the meeting to which the statement relates.

4. In connection with action to be taken concerning the election of directors, if fewer nominees are named than the number fixed by or pursuant to the governing instruments, state the reasons for this procedure and that the proxies cannot be voted for a greater number of persons than the number of nominees named.

5. With regard to proxy statements in connection with action to be taken concerning the election of directors, if the solicitation is made by persons other than management, information should be given as to nominees of the persons making the solicitation. In all other instances, information should be given as to directors and persons nominated for election or chosen by management to become directors.

(b) *Identification of certain significant employees.* Where the bank employs persons such as special consultants or attorneys who are not officers, but who make or are expected to make significant contributions to the business of the bank, such persons should be identified and their background disclosed to the same extent as in the case of officers.

(c) *Family relationships.* State the nature of any family relationships between any director, officer, or person nominated or chosen by the bank to become a director or officer.

Instructions. The term "family relationships" means any relationship by blood, marriage, or adoption, not more remote than first cousin.

(d) *Business experience.* (1) Give a brief account of the business experience during the past five years of each director, officer or person nominated or chosen to become a director of officer, and each person named in answer to paragraph (b), including principal occupations and employment during that period, and the name and principal business of any corporation or other organization in which such occupations and employment were carried on. When an officer or person named in response to paragraph (b), has been employed by the bank or a subsidiary of the bank for less than five years, a brief explanation should be included as to the nature of the responsibilities undertaken by the individual in prior positions in order to provide adequate disclosure of his prior business experience. What is required is information relating to the level of his professional competence which may include, depending upon the circumstances, such specific information as the size of the operation supervised. (2) Indicate any other directorship held by each director or person chosen to become a director in any company with a class of securities registered pursuant to Section 12 of the Act.

(e) *Involvement in certain legal proceedings.* Describe any of the following events which occurred during the past five years and which are material to an evaluation of the ability or integrity of any director, officer or person chosen or nominated to become a director or officer of the bank:

(1) A petiton under the bankruptcy Act or any state insolvency law was filed by or against such person, or a receiver, fiscal agent or similar officer was appointed by a court for the business or property of such person, or any partnership in which he was a general partner at or within two years before the time of such filing, or any corporation or business association of which he was an executive officer at or within two years before the time of such filing;

(2) Such person was convicted in a criminal proceeding or is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses);

(3) Such person was the subject of any order, judgment, or decree, not subsequently reversed, suspended or vacated, of any court of competent jurisdiction permanently or temporarily enjoining him from, or otherwise limiting the following activities:

(i) Acting as an investment adviser, underwriter, broker or dealer in securities, or as an affiliated person, director or employee of any investment company, bank, savings and loan association or insurance company, or engaging in or continuing any conduct or practice in connection with such activity;

(ii) Engaging in any type of business practice; or

(iii) Engaging in any activity in connection with the purchase or sale of any security or in connection with any violation of federal or state securities laws.

(4) Such person was the subject of any order, judgment or decree, not subsequently reversed, suspended or vacated, of any federal or state authority barring, suspending or otherwise limiting for more than 60 days the right of such person to engage in any activity described in subparagraph (3), above, or to be associated with persons engaged in any such activity.

(5) Such person was found by a court of competent jurisdiction in a civil action, or by a government agency, to have violated any federal or state securities law, and the judgment in such civil action or finding by the government agency has not been subsequently reversed, suspended, or vacated.

Instructions. 1. For purposes of computing the five year period referred to in this paragraph, the date of a reportable event shall be deemed the date on which the final order, judgment or decree was entered, or the date on which any rights of appeal from preliminary orders, judgments, or decrees have lapsed. With respect to bankruptcy petitions, the computation date shall be the date of filing for uncontested petitions or the date upon which approval of a contested petition became final.

2. If any event specified in this subparagraph (e) has occurred and information in regard thereto is omitted on the ground that it is not material, the bank may furnish to the Board at the time of filing, as supplemental information and not as part of the statement, materials to which the omission relates, a description of the event, and a statement of the reasons for the omission of information in regard thereto.

3. The bank is permitted to explain any mitigating circumstances associated with events reported pursuant to this paragraph.

4. If the information called for by Item 6(e) is being presented in a proxy or information statement, no information need be given respecting any director whose term in office as director will not continue after the meeting to which the statement relates.

(f) Describe any of the following relationships which exist:

(1) If the nominee or director has during the past five years had a principal occupation or employment with any of the bank's parents, subsidiaries or other affiliates;

(2) If the nominee or director is related to an officer of any of the bank's parents, subsidiaries or other affiliates by blood, marriage or adoption (except relationships more remote than first cousin);

(3) If the nominee or director is, or has within the last two full fiscal years been, an officer, director or employee of, or owns, or has within the last two full fiscal years owned, directly or indirectly, in excess of 1 percent equity interest in any firm, corporation or other business or professional entity:

(i) Which has made payments to the bank or its subsidiaries for property or services during the bank's last full fiscal year in excess of 1 percent of the bank's consolidated gross revenues for its last full fiscal year;

(ii) Which proposes to make payments to the bank or its subsidiaries for property or services during the current fiscal year in excess of 1 percent of the bank's consolidated gross revenues for its full fiscal year;

(iii) To which the bank or its subsidiaries were indebted at any time during the bank's fiscal year in an aggregate amount in excess of 1 percent of the bank's total consolidated assets at the end of such fiscal year or $5,000,000, whichever is less;

(iv) To which the bank or its subsidiaries have made payments for property or services during such entity's last full fiscal year in excess of 1 percent of such entity's gross revenues for its last full fiscal year;

(v) To which the bank or its subsidiaries propose to make payments for property or services during such entity's current fiscal year in excess of 1 percent of such entity's consolidated gross revenues for its last full fiscal year;

(vi) In order to determine whether payments made or proposed to be made exceed 1 percent of the consolidated gross revenues of any entity other than the bank for such entity's last full fiscal year, it is appropriate to rely on information provided by the nominee or director;

(vii) In calculating payments for property and services the following may be excluded:

(A) Payments where the rates or charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a public utility at rates or charges fixed in conformity with law or governmental authority;

(B) Payments which arise solely from the ownership of securities of the bank and no extra or special benefit not shared on a pro rata basis by all holders of the class of securities is received;

(viii) In calculating indebtedness for purposes of subparagraph (iii) above, debt securities which have been publicly offered, admitted to trading on a national securities exchange, or quoted on the automated quotation system of a registered securities assocation may be excluded.

(4) That the nominee or director is a member or employee of, or is associated with, a law firm which the bank has retained in the last two full fiscal years or proposes to retain in the current fiscal year;

(5) That the nominee or director is a control person of the bank (other than solely as a director of the bank).

(6) In addition, the bank should disclose any other relationships it is aware of between the director or nominee and bank or its management which are substantially similar in nature and scope to those relationships listed above.

Note.—In the Board's view, where significant business or personal relationships exist between the director or nominee and the bank or its management, including, but not limited to, those as to which disclosure would be required pursuant to item 6(b), characterization of a director or nominee by any "label" connoting a lack of relationship to the issuer and its management may be materially misleading.

(g)(1) *Committees.* State whether or not the bank has standing audit, nominating and compensation committees of the Board of Directors, or committees performing similar functions. If the bank has such committees, however designated, identify each committee member, state the number of committee meetings held by each such committee during the last fiscal year and describe briefly the functions performed by such committees.

(2)(a) If the bank has a nominating or similar committee, state whether the committee will consider nominees recommended by shareholders and, if so;

(b) Describe the procedures to be followed by shareholders in submitting such recommendations.

(h) *Director Attendance.* State the total number of meetings of the Board of Directors (including regularly scheduled and special meetings) which were held during the last full fiscal year. Name each incumbent director who during the last full fiscal year attended fewer than 75 percent of the aggregate of (1) the total number of meetings of the board of directors (held during the period for which he has been a director) and (2) the total number of meetings held by all committees of the board on which he served (during the periods that he served).

(i) *Resignation of Directors.* If a director has resigned or declined to stand for re-election to the board of directors since the date of the last annual meeting of shareholders because of a disagreement with the bank on any matter relating to the bank's operations, policies or practices, and if the director has furnished the bank with a letter describing such disagreement and requesting that the matter be disclosed, the bank shall state the date of resignation or declination to stand for re-election and summarize the director's description of the disagreement.

(j) If the bank believes that the description provided by the director is incorrect or incomplete, it may include a brief statement presenting its views of the disagreement.

23. § 206.51, Form F–5 (Proxy Statement), Item 7, Remuneration and Other Transactions With Management and Others, would be amended as follows:

Item 7—Remuneration and other transactions with management and others.

Furnish the information called for by this item if action is to be taken with respect to (i) the election of directors, (ii) any bonus, profit sharing or other remuneration plan, contract or arrangement in which any director, nominee for election as a director, or officer of the bank will participate, (iii) any pension or retirement plan in which any such person will participate, or (iv) the granting or extension to any such person of any options, warrants or rights to purchase any securities, other than warrants or rights issued to security holders, as such, on a pro rata basis. However, if the solicitation is made on behalf of persons other than the management, the information required need be furnished only as to nominees for election as directors and as to their associates.

(a) *Current remuneration.* Furnish the information required in the table below, in substantially the tabular form as specified, concerning all remuneration of the following persons and group for services in all capacities to the bank during the bank's last fiscal year.

(1) *Five Officers or directors.* Each of the five most highly compensated officers or directors of the bank as to whom the total remuneration required to be disclosed in Columns C1 and C2, below, would exceed $50,000, naming each such person: and

(2) *All officers and directors.* All officers and directors of the bank as a group, stating the number of persons in the group without naming them.

Remuneration table

(A)	(B)	(C)		(D)
		Cash and cash-equivalent forms of remuneration		
Name of individual or number of persons in group	Capacities in which served	(C1)	(C2)	Aggregate of contingent forms of remuneration
		Salaries, fees directors' fees, commissions, and bonuses	Securities or property, insurance benefits or reimbursement, personal benefits	

(3) *Specified Tabular Format*

Instructions to Item 7(a). 1. Columns A and B. Persons subject to this item. (a) This item applies to any person who was an officer or director of the bank at any time during the fiscal year. However, information need not be given for any portion of the period during which such person was not an officer or director of the bank, provided a statement to that effect is made. (b) The term officer is defined in § 206.2(q) (c) For the purposes of this item "bank" shall include the bank and all its subsidiaries.

2. *Column C.* (a) Column C1 shall include all cash remuneration distributed or accrued in the form of salaries, fees, directors' fees, commissions and bonuses.

(b) Column C2 should include the following: (i) *Securities or property.* Where any of the specified persons or group (a) exercises any option, right or similar election in connection with any contract, agreement, plan or arrangement, or (b) becomes entitled without further contingencies to retain securities or property, state the spread between the acquisition price, if any, and the fair market price of all securities or property acquired under any contract, agreement, plan or arrangement. The fair market price of any such securities or property shall be determined as of the date during the fiscal year that either of the events in (a) or (b) of this paragraph occurs, or if both events are contemplated, the date of the latter event.

(ii) *Personal benefits.* (a) The value of personal benefits which are not directly related to job performance, which are furnished by the bank directly or through third parties to each of the specified persons and group, or benefits furnished by the bank to other persons which indirectly benefit the specified persons. Such personal benefits shall include the costs of any premiums or benefits paid by the bank for any life or health insurance policy or health plan of which bank is not the sole beneficiary. Such benefits shall be valued on the basis of the aggregate actual cost to the bank. Information need not be furnished for any such benefit provided by the bank which does not discriminate in favor of officers or directors and which is available generally to all salaried employees. (b) No disclosure need be included as to any person named in the remuneration table if the aggregate amount of all personal benefits to such person did not exceed $5,000. If disclosure of such amounts is not made, a statement to that effect should be added in a footnote to the table. (c) If the bank cannot determine the actual cost of personal benefits for a specified person without unreasonable effort or expense, include a reasonable estimate of the cost of the personal benefit to the bank. If the bank cannot reasonably allocate the extent to which the benefit is personal, include the aggregate cost to the bank and estimate the percentage of cost attributable to personal use. If an estimate is made, disclose the factors upon which the estimate is based. (d) Please provide in a statement following the table a description of the bank's policies and practices with respect to providing personal benefits to officers, directors, or principal shareholders. Describe the type of benefits provided and the basis for selection of the recipients.

3. *Column D.* Column D shall include remuneration of the specified persons and group in whole or in part for services rendered during the latest fiscal year (including the forms of remuneration described in paragraph (a) through (c) below) if the distribution of such remuneration or the unconditional vesting or measurement of benefits thereunder is subject to future events.

Footnote Disclosure. If, as to a person named in the table, an amount representing personal benefits included in Column C2 exceeds 10% of the aggregate amount disclosed in Columns C1 and C2 or $25,000, whichever is less, include a footnote to the table stating the dollar amount or percentage of Column C2 represented by such personal benefits and briefly describing such benefits.

(a) *Pensions or retirement plans; annuities; employment contracts; deferred compensation plans.*

(i) As to each of the specified persons and group, the amount expensed for financial reporting purposes by the bank for the year which represents the contribution, payment, or accrual for the account of any such person or group under any existing pension or retirement plans, annuity contracts, deferred compensation plans, or any other similar arrangements. Such amounts should be reflected as remuneration for the fiscal year under all such plans or arrangements, including plans qualified under the Internal Revenue Code, unless in the case of a defined benefit or actuarial plan, the amount of the contribution, payment, or accrual in respect to a specified person is not and cannot readily be separately or individually calculated by the regular actuaries for the plan.

(ii) If amounts are excluded from the table pursuant to the previous provision, include a footnote to the table: (a) stating the fact; (b) disclosing the percentage which the aggregate contributions to the plan bear to the total remuneration of plan participants covered by such plan; and (c) briefly describing the remuneration covered by the plan.

(b) *Incentive and compensation plans and arrangements.*

(1) With respect to stock options, stock appreciation rights plans, phantom stock plans and any other incentive or compensation plan or arrangement pursuant to which the measure of benefits is based on objective standards or on the value of securities of the bank or another person granted, awarded or entered into at any time in connection with services to the bank, include as remuneration of each of the specified persons and group any attributable amount expensed by the bank for financial reporting purposes for the fiscal year as remuneration for any such person or group.

(2) Where amounts are expensed and reported in the remuneration table, and amounts are credited in a subsequent year in connection with the same plan or arrangement for any proper reason including a decline in the market price of the securities, such credit may be reflected as a reduction of the remuneration reported in Column D. If amounts credited are reflected in the table, include a footnote stating the amount of the credit and briefly describe such treatment.

(3) The term "options" as used in this item includes all options, warrants, or rights, other than those issued to security holders as such on a pro rata basis.

(c) *Stock purchase plans; profit sharing and thrift plans.* Include the amount of any contribution, payment or accrual for the account of each of the specified persons and groups under any stock purchase, profit sharing, thrift, or similar plans which has been expensed during the fiscal year by the bank for financial reporting purposes. Amounts reflecting contributions under plans qualified under the Internal Revenue Code may not be excluded.

4. *Other permitted disclosure.* The bank may provide additional disclosure through a footnote to the table, through additional columns, or otherwise, describing the components of aggregate remunerations in such greater detail as is appropriate.

5. *Definition of "Plan."* The term "plan" as used in this item includes all plans, contracts, authorizations, or arrangements whether or not set forth in any formal documents.

6. *Transactions with third parties.* Item 7(a), among other things, includes transactions between the bank and a third party when the primary purposes of the transaction is to furnish remuneration to the persons specified in Item 7(a). Other transactions between the bank and third parties in which persons specified in Item 7(a) have an interest, or may realize a benefit, generally are addressed by other disclosure requirements concerning the interest of management and others in certain transactions. Item 7(a) does not require disclosure of remuneration paid to a partnership in which any officer or director was a partner; any such transactions should be disclosed pursuant to these other disclosure requirements, and not as a note to the remuneration table presented pursuant to Item 7(a).

(b) *Proposed remuneration.* Briefly describe all remuneration payments proposed to be made in the future pursuant to any existing plan or arrangement to the persons and group specified in Item 7(a). As to defined benefit or actuarial plans, with respect to which amounts are not included in the table pursuant to Instruction 3(a) to Item 7(a),

include a separate table showing the estimated annual benefits payable upon retirement to persons in specified remuneration and years-of-service classification.

Instruction. Information need not be furnished with respect to any group life, health, hospitalization, or medical reimbursement plans which do not discriminate in favor of officers or directors of the bank and which are available generally to all salaried employees.

(c) *Options, warrants, or rights.* Furnish the following information as to all options to purchase any securities from the bank which were granted to or exercised by the following persons since the beginning of the bank's last fiscal year, and as to all options held by such persons as of the latest practicable date: (i) each director or officer named in answer to paragraph (a)(1), naming each such person; and (ii) all directors and officers of the bank as a group, without naming them;

(1) As to options granted during the period specified state: (i) the title and aggregate amount of securities called for; (ii) the average option price per share; and (iii) if the option price was less than 100 percent of the market value of the security on the date of grant, state such fact, and the market price on such date, shall be disclosed.

(2) As to options exercised during the period specified, state (i) the title and aggregate amount of securities purchased; (ii) the aggregate purchase price; and (iii) the aggregate market value of the securities purchased on the date of purchase.

(3) As to all unexercised options held as of the latest practicable date (state date), regardless of when such options were granted, state (i) the title and aggregate amount of securities called for, and (ii) the average option price per share.

Instructions. 1. The term "options" as used in this paragraph (c) includes all options, warrants or rights, other than those issued to security holders as such on a pro rata basis. Where the average option price per share is called for, the weighted average price per share shall be given.

2. The extension, regranting or material amendment of options shall be deemed the granting of options within the meaning of this paragraph.

3. (i) Where the total market value on the granting dates of the securities called for by all options granted during the period specified does not exceed $10,000 for any officer or director named in answer to paragraph (a)(1), or $40,000 for all officers and directors as a group, this item need not be answered with respect to options granted to such persons or group. (ii) Where the total market value on the dates of purchases of all securities purchased through the exercise of options during the period specified does not exceed $10,000 for any such period or $40,000 for such group, this item need not be answered with respect to options exercised by such person or group. (iii) Where the total market value as of the latest practicable date of the securities called for by all options held at such time does not exceed $10,000 for any such person or $40,000 for such group, this item need not be answered with respect to options held as of the specified date by such person or group.

4. If the options relate to more than one class of securities the information shall be given separately for each such class.

(d) *Indebtedness of management.* (1) State as to each of the following persons, herein called specified persons, who was indebted to the bank at any time since the beginning of its last fiscal year: (a) the largest aggregate amount of indebtedness, including extensions of credit or overdrafts, endorsements or guarantees outstanding (in dollar amounts and as a perentage of total equity capital accounts at the time) at any time during such period; (b) the nature of the indebtedness and of the transaction in which it was incurred; (c) the amount thereof outstanding as of the latest practicable date; and (d) the rate of interest paid or charges thereon:

(i) each director or officer of the bank;

(ii) each nominee for election as director;

(iii) each security holder who is known to bank to own of record or beneficially more than five percent of any class of the bank's voting securities;

(iv) each associate of any such director, officer, nominee or principal security holder.

Instructions. 1. Include the name of such person whose indebtedness is described and the nature of the relationship by reason of which the information is required to be given.

2. Generally, no information need be given under this Item 7(d), unless any of the following are present:

(a) such extensions of credit are not made on substantially the same terms, including interest rates, collateral and repayment terms, as those prevailing at the time for comparable transactions with other than the specified persons.

(b) such extensions of credit were not made in the ordinary course of business.

(c) such extensions of credit have involved or presently involve more than a normal risk of collectibility or other unfavorable features including the restructuring of an extensions of credit or a delinquency as to payment of interest or principal.

(d) the aggregate amount of extensions of credit outstanding at any time from the beginning of the last fiscal year to date to a specified person together with his associates, exceeded 10 percent of the equity capital accounts of the bank at that time or $5 million, whichever is less.

(2) If any extension of credit to the specified persons as a group exceeded 20 percent of the equity capital accounts of the bank at any time since the beginning of the last full fiscal year to date, disclose the maximum aggregate amount of extensions of credit to the group during the period, the aggregate amount as a percentage of the equity capital accounts of the bank and include a statement, to the extent applicable, that the bank has had, and expects to have in the future, banking transactions in the ordinary course of its business with directors, officers, principal stockholders and their associates, on the same terms, including interest rates, collateral and repayment terms on extensions of credit, as those prevailing at the same time for comparable transactions with others.

3. If any indebtedness required to be described arose under Section 16(b) of the Act and has not been discharged by payment, state the amount of any profit realized, that such profit will inure to the benefit of the bank or its subsidiaries and whether suit will be brought or other steps taken to recover such profit. If in the opinion of counsel a question reasonably exists as to the recoverability of such profit, it will suffice to state all facts necessary to describe the transaction, including the prices and number of shares involved.

4. Notwithstanding the foregoing, any transaction or series of transactions resulting in indebtedness to the bank or its subsidiaries which may be considered material should be disclosed.

5. If the information called for by Item 7(d) is being presented in Form F-1, § 206.41, the information called for shall be presented for the last three full fiscal years.

(e) *Transactions With Management.* Describe briefly any transaction since the beginning of the bank's last full fiscal year or any presently proposed transactions, to which the bank or any of its subsidiaries was or is to be a party, in which any of the specified persons in Item 7(d) had or is to have a direct or indirect material interest, naming such person and stating his relationship to the bank, the nature of his interest in the transaction and, where practicable, the amount of such interest.

Instructions. 1. No information need be given in response to this Item 7(e) as to any remuneration or other transaction reported in response to Item 7(a), (b), (c) or (d), or as to any transaction with respect to which information may be omitted pursuant to Instruction 2 to Item 7(c) or Instruction 2 or 3 to Item 7(d). Instruction 2 to Item 7(a) applies to this Item 7(e).

2. No information need be given in answer to this Item 7(e) as to any transaction where:

(a) The rates or charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a common or contract carrier, or public utility, at rates or charges fixed in conformity with law or governmental authority;

(b) The transaction involves services as a bank depository of funds, transfer agent, registrar, trustee under an indenture, or similar services;

(c) The amount involved in the transaction or series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for period payments or installments, does not exceed $40,000 for the term of each transaction or series of transactions; or

(d) The interest of the specified person arises solely from the ownership of securities of the bank and the specified person receives no extra or special benefit not shared on a pro rate basis by all holders of securities of the class.

3. It should be noted that this item calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity, which engages in a transaction with the bank may

have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this Item 7(e) where:

(a) The interest arises only (i) from such person's position as a director of another corporation or organization (other than a partnership) which is a party to the transaction, or (ii) from the direct or indirect ownership by such person and all other persons specified in subparagraphs (1) through (4) above, in the aggregate, of less than a 10 per cent equity interest in another person (other than a partnership) which is a party to the transaction, or (iii) from both such position and ownership;

(b) The interest arises only from such person's position as a limited partner in a partnership in which he and all other persons specified in (1) through (4) above had an interest of less than 10 per cent; or

(c) The interest of such person arises solely from the holding of an equity interest (including a limited partnership interest but excluding a general partnership interest) or a creditor interest in another person which is a party to the transactions with the bank and the transaction is not material to such other person.

4. The amount of the interest of any specified person shall be computed without regard to the amount of the profit or loss involved in the transaction. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction will be indicated.

5. In describing any transaction involving the purchase or sale of assets by or to the bank, otherwise than in the ordinary course of business, state the cost of the assets to the purchaser and, if acquired by the seller within two years prior to the transaction, the cost thereof, to the seller.

6. If the information called for by Item 7(e) is being presented in Form F–1, § 206.41, the period for which the information called for shall be presented for the previous three years.

7. Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

8. Information shall be furnished in answer to this item with respect to transactions not excluded above which involve remuneration from the bank directly or indirectly, to any of the specified persons for services in any capacity unless the interest of such persons arises solely from the ownership individually and in the aggregate of less than 10 per cent of any class of equity securities of another corporation furnishing the services to the bank.

9. The foregoing instructions specify certain transactions and interests as to which information may be omitted in answering this item. These may be situations where, although the foregoing instructions do not expressly authorize nondisclosure, the interest of a specified person in the particular transaction or series of transactions is not a mutual interest. In that case, information regarding such interest and transaction is not required to be disclosed in response to this item. The materiality of any interest or transaction is to be determined on the basis of the significance of the information to investors in light of all of the circumstances of the particular case. The importance of the interest to the person having the interest, the relationship of the parties to the transaction to each other and the amount involved in the transaction are among the factors to be considered in determining the significance of the information to investors.

(f) *Transactions with pension or similar plans.* Describe briefly any transactions since the beginning of the bank's last full fiscal year or any presently proposed transactions, to which any pension, retirement, savings or similar plan provided by the bank, or any of its parents or subsidiaries was or is to be a party, in which any of the specified persons in Item 7(d) had or is to have a direct or indirect material interest, naming such person and stating his relationship to the bank, the nature of his interest in the transaction and, where practicable, the amount of such interest.

Instructions. 1. Instructions 2, 3, 4 and 5 to Item 7(e) shall apply to this Item 7(f).

2. Without limiting the general meaning of the term "transaction" there shall be included in answer to this Item 7(f) any remuneration received or any loans received or outstanding during the period, or proposed to be received.

3. No information need be given in answer to paragraph (f) with respect to:

(a) Payments to the plan, or payments to beneficiaries, pursuant to the terms of the plan;

(b) Payment of remuneration for services not in excess of 5 per cent of the aggregate remuneration received by the specified person during the bank's last fiscal year from the bank; or

(c) Any interest of the bank which arises solely from its general interest in the success of the plan.

(g) *Legal Proceedings.* Any material proceedings to which any director, officer or affiliate of the bank, and persons holding in excess of five per cent of the bank's outstanding stock, or any associate of any such director, officer or security holder, is a party or has an interest materially adverse to the bank or any of its subsidiaries should also be described.

24. § 206.51, Form F–5 (Proxy Statement), Item 8, Relationship with Independent Public Accountants, would be amended as follows:

Item 8—Relationship With Independent Public Accountants.

* * * * *

(e) If action is to be taken with respect to the selection or approval of auditors, or if it is proposed that particular auditors shall be recommended by any committee to select auditors for whom votes are to be cast, name the auditors and describe briefly any direct financial interest or any material indirect financial interest in the bank or any of its parents or subsidiaries, or any connection during the past 3 years with the bank or any of its parents or subsidiaries in the capacity of promoter, underwriter, voting trustee, director, officer, or employee. If the auditors to be selected are other than those which were engaged as the principal auditors for the bank's most recently filed certified financial statements, briefly summarize the circumstances and conditions surrounding the proposed change of such auditors, and state whether such change was recommended or approved by:

(1) Any audit or similar committee of the Board of Directors, if the bank has such a committee; or

(2) The Board of Directors, if the bank has no such committee.

For the fiscal year most recently completed, describe each professional service provided by the auditor and state the percentage relationship which the aggregate of the fees for all nonaudit services bear to the audit fees, and, except as provided below, state the percentage relationship which the fee for each nonaudit service bears to the audit fees. Indicate whether, before each professional service provided by the principal accountant was rendered, it was approved by, and the possible effect on the independence of the accountant was considered by (1) any audit or similar committee of the board of directors and (2) for any service not approved by an audit or similar committee, the board of directors.

Instructions. 1. For purposes of this subsection, all fees for services provided in connection with the audit function (*e.g.*, reviews of quarterly reports, filings with the Board, and annual reports) may be computed as part of the audit fees. Indicate which services are reflected in the audit fees computation.

2. If the fee for any nonaudit service is less than 3 per cent of the audit fees, the percentage relationship need not be disclosed.

3. Each service should be specifically described. Broad general categories such as "tax matters" or "management adivsory services" are not sufficiently specific.

4. Describe the circumstances and give details of any services provided by the bank's independent accountant during the latest fiscal year that were furnished at rates or terms that were not customary.

5. Describe any existing direct or indirect understanding or agreement that places a limit on current or future years' audit fees, including fee arrangements that provide fixed limits on fees that are not subject to reconsideration if unexpected issues involving accounting or auditing are encountered. Disclosure of fee estimates is not required.

* * * * *

Board of Governors of the Federal Reserve System, June 22, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79–20310 Filed 6–29–79; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Ch. VII]

Executive Order No. 12044: Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: National Credit Union Administration.

ACTION: Publication of Semiannual Agenda of Regulations.

SUMMARY: Purusant to Executive Order No. 12044: Improving Government Regulations, NCUA is publishing a list of regulations under consideration by NCUA as of June 30, 1979.

DATE: Effective June 30, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, NW, Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: (a) On the Executive Order or the Agenda, Robert Monheit, Senior Attorney/Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration at the above address. Telephone: (202) 632–4870. (b) On a particular regulation, contact the person named in the listing for that regulation, at the above address.

SUPPLEMENTARY INFORMATION: On March 23, 1978, Executive Order No. 12044 was issued, directing each executive agency to publish a report on procedures to improve government regualtions. The Executive Order also directed each agency to publish, twice a year, a list of significant regulations being considered, along with a description of the regulation, its need and legal basis, its status, the name and telephone number of an agency official familiar with the regulation and whether a regulatory analysis is required for that regulation. On May 31, 1878, NCUA published its draft report for public comment (43 FR 23688); on October 2, 1978 NCUA published an announcement (43 FR xiii) stating that the Semiannual Agenda would be published on December 15, 1978 and June 30, 1979. NCUA's final report was published on March 23, 1979 (44 FR 17954). As to many of these regulations, development has, prior to implementation of the Executive Order, proceeded beyond the stage at which a regulatory analysis would be required.

Agenda

1. a. § 701.27–2, Credit Union Service Corporation, authorizing Federal credit unions to invest in, to make loans to, or to extend lines of credit to, organizations providing services associated with the routine operations of credit unions.

b. *Need:* To implement the provisions of Pub. L. 95–22 in accordance with the specific guidance provided in the Report of the Committee on Banking, Finance, and Urban Affairs, House of Representatives, (H.R. Rep. No. 95–23).

Legal Basis: 12 U.S.C. §§ 1757(5)(D), 1757(7)(I), 1766, and 1789.

c. *Status:* Final regulation issued March 7, 1979 (44 FR 12401), effective April 9, 1979.

d. *For Further Information Contact:* Either Layne L. Bumgardner, Office of Examination and Insurnace, telephone: (202) 254–8760, or Todd A. Okun, Office of General Counsel, telephone: (202) 632–4870.

2. a. § 703.3, Investment Activities of Federal Creidt Unions, restricting involvement in investment activities that are unauthorized or otherwise unsafe or unsound.

b. *Need:* To curb abuses, and resulting substantial losses, arising from certain speculative investment transactions, and to clarify the permissible range of authorized investment transactions.

Legal basis: 12 U.S.C. §§ 1757, 1766, and 1789.

c. *Status:* Final regualtion has been drafted.

d. *For Further Information Contact:* Robert F. Schafer, Office of Examination and Insurance, telephone: (202) 254–8760.

3. a. § 701.38, Borrowed Funds from Natural Persons, restricting Federal credit union borrowing from natural persons to the credit union's members, and limiting the interest rate and maturity.

b. *Need:* To ensure that Certificates of Indebtnesses are not used to circumvent the rate controls for shares and share certificates, and to ensure that investment services offered to natural persons by Federal credit unions are limited to the credit union's members.

c. *Status:* Final regulation issued June 6, 1979 (44 FR 32358), effective July 5, 1979.

d. *For Further Information Contact:* Mike Fischer, Chief Accountant, Office of Examination and Insurance, telephone: (202) 254–8760, or James L. Skiles, Deputy General Counsel, Office of General Counsel, telephone: (202) 632–4870.

4. a. § 701.21–8, Purchase, Sale, and Pledge of Eligible Obligations, governs and defines the permissible scope of a Federal credit union's authority to purchase, sell, or pledge credit union members' obligations.

b. *Need:* To implement Pub. L. 95–22, and to provide Federal credit unions with greater flexibility in meeting liquidity needs, in meeting member demands, and in spreading the risk of those demands.

Legal Basis: 12 U.S.C. §§ 1757(13), 1757(14), 1766 and 1789.

c. *Status:* Final regulation issued May 9, 1979 (44 FR 27068), effective May 9, 1979.

d. *For Further Information Contact:* Either Stephen Raver, Director, Division of Examination, Office of Examination and Insurance, telephone: (202) 254–8760, or John L. Culhane, Jr., Attorney-Advisor, Office of General Counsel, telephone: (202) 632–4870.

5. a. § 701.31, Nondiscrimination Requirements, anti-"redlining" regulation prohibiting the sole consideration of the age or location of a dwelling, and the consideration of the race, color, religion, sex, or national origin of persons living in the vicinity, when a Federal credit union decides on granting a mortgage loan.

b. *Need:* To prevent the discriminatory practice of "redlining."

Legal Basis: 12 U.S.C. §§ 1757(5)(A)(i), 1766, and 1789.

c. *Status:* Proposed regulation issued January 18, 1979 (44 FR 3722); comment period closed Feb. 28, 1979. Final regulation has been drafted.

d. *For Further Information Contact:* Edward J. Dobranski, Senior Attorney, Office of General Counsel, telephone: (202) 632–4870.

6. a. § 701.37, Treasury Tax and Loan Accounts, to permit Federal credit unions to participate as depositaries for funds representing payments for certain U.S. obligations and payments of Federal taxes.

b. *Need:* To implement Pub. L. 95–147 and to accommodate the requirements of the regulations of the Department of the Treasury, 31 CFR Part 203.

Legal Basis: Pub. L. 95–147; 12 U.S.C. §§ 1766, 1767, and 1789.

c. *Status:* Final regulation issued Jan. 24, 1979 (44 FR 4938), effective Jan. 24, 1979.

d. *For Further Information Contact:* Mike Fischer, Chief Accountant, Office of Examination and Insurance, telephone: (202) 254–8760.

7. a. §§ 701.21–2(a) and 701.21–3(b)(2), to permit payment on loans at intervals greater than one month and less than 12 months.

b. *Need:* To permit credit unions to establish repayment periods which coincide with the receipt of income by those members whose income is necessarily irregular.

Legal Basis: (1) Petition for rulemaking pursuant to 5 U.S.C. § 553(e) submitted by Credit Union National Association, Inc.; (2) Pub. L. 95–22.

c. *Status:* Final regulation issued June 6, 1979 (44 FR 32357), effective July 1, 1979.

d. *For Further Information Contact:* Layne L. Bumgardner, Office of Examination and Insurance, telephone: (202) 254–8760.

8. a. Part 747, procedures for imposing civil penalties for violations of cease and desist orders.

b. *Need and Legal Basis:* Title I, Pub. L. 95–630.

c. *Status:* Proposed regulation drafted.

d. *For Further Information Contact:* Jay Keithley, Attorney-Advisor, Office of General Counsel, telephone: (202) 632–4870.

9. a. Management Interlocks, to regulate the practice of management officials of credit unions serving as management officials of other depository institutions.

b. *Need and Legal Basis:* "Depository Institutions Management Interlocks Act", Title II, Pub. L. 95–630.

c. *Status:* Proposed regulation issued Feb. 1, 1979 (44 FR 6421), comment period closed March 5, 1979. Final regulation has been drafted.

d. *For Further Information Contact:* Ross P. Kendall, Attorney-Advisor, Office of General Counsel, telephone: (202) 632–4870.

10. a. NCUA Restructuring, to revise NCUA's internal procedures and NCUA regulations in light of the creation of a three person Board to manage the agency.

b. *Need and Legal Basis:* Title V, Pub. L. 95–630, and 5 U.S.C. 552b.

c. *Status:* Proposed regulations under development.

d. *For Further Information Contact:* J. Leonard Skiles, Deputy General Counsel, Office of General Counsel, telephone: (202) 632–4870.

11. a. National Credit Union Central Liquidity Facility, to govern membership in, access to, and the internal procedures of the Central Liquidity Facility.

b. *Need and Legal Basis:* Title XVIII, Pub. L. 95–630.

c. *Status:* Proposed regulation issued May 4, 1979 (44 FR 26115), comment period closed June 18, 1979.

d. *For Further Information Contact:* Mike Fischer, Chief Accountant, Office of Examination and Insurance, and Layne L. Bumgardner, Chief, Credit Union Operations, Office of Examination and Insurance, telephone: (202) 254–8760; Mark S. Medvin, Attorney-Advisor, Office of General Counsel, telephone: (202) 632–4870.

e. Regulatory Analysis has been prepared.

12. a. § 701.6, Fees Paid by Federal Credit Unions, to establish a single operating fee in place of separate chartering, supervision, and examination fees.

b. *Need:* To generate income sufficient to affect anticipated expenditures of the Administration; to reduce some of the inequities of the current fee structure; and to simplify the means of assessment and thereby reduce paperwork requirements.

Legal Basis: Pub. L. 95–630; 12 U.S.C. § 1755.

c. *Status:* Final Regulation issued May 10, 1979 (44 FR 27379), effective June 15, 1979.

d. *For Further Information Contact:* John R. Sander, Budget Officer, Office of the Comptroller, telephone: (202) 633–6737.

13. a. § 701.24, Refund of Interest, to permit Federal credit unions to vary interest refunds according to different classes of loans.

b. *Need:* To permit greater flexibility for credit union management, and to reduce inequities, in light of the new lending powers granted by Pub. L. 95–22.

Legal Basis: Pub. L. 95–22, 12 U.S.C. § 1761b.

c. *Status:* Final Regulation issued January 30, 1979 (44 FR 5870), effective January 30, 1979.

d. *For Further Information Contact:* Robert M. Fenner, Assistant General Counsel, Office of General Counsel, telephone: (202) 632–4870.

14. a. § 701.35 Share Accounts and Share Certificate Accounts, to authorize Federal credit unions to issue different types of accounts at varying rates and maturities.

b. *Need:* To increase credit union management's flexibility in tailoring an account structure suitable to the needs of the credit union and its members; to permit small savers to have a greater opportunity to receive a higher return on their savings; to revise the minimum penalty provisions; and to simplify and clarify the minimum penalty provisions; and to simplify and clarify the previous regulations on this subject.

Legal Basis: 12 U.S.C. §§ 1766 and 1789.

c. *Status:* Final regulations issued June 5, 1979)44 FR 32202), effective July 1, 1979.

d. *For Further Information Contact:* J. Leonard Skiles, Deputy General Counsel, Office of General Counsel, telephone: (202) 632–4870.

15. a. § 740.3, Mandatory Requirements with Regard to the Official Sign and Its Display, and § 745.13 Notification of Depositors/ Shareholders, to except automated teller machines (ATM's) and point of sale (POS) terminals from the "Advertisement of Insured Status" requirements.

b. *Need:* To reduce regulatory requirements and to prevent confusion in situations where several financial institutions insured by different Federal and/or State agencies share the same ATMs or POS terminals.

Legal Basis: 12 U.S.C. § 1766 and 1789.

c. *Status:* Proposed regulation issued March 14, 1979 (44 FR 15512); comment period closed May 7, 1979.

d. *For Further Information Contact:* Layne L. Bumgardner, Chief, Credit Union Operations, Office of Examination and Insurance, telephone: (202) 254–8760.

16. a. Debt Collection Practices, to impose uniform and comprehensive restrictions on collection of debts.

b. *Need:* To protect credit union members from abusive debt collection practices; to provide credit union management with guidance as to permissible debt collection practices.

c. *Status:* Advance Notice of Proposed Rulemaking issued April 5, 1979 (44 FR 20447), to determine the need for a regulation and to provide an early opportunity for public participation. Comment period extended (44 FR 32230) to June 30, 1979.

d. *For Further Information Contact:* Joseph F. Myers, Consumer Affairs Specialist, Division of Consumer Affairs, Office of Examination and Insurance, telephone: (202) 254–8760; John L. Culhane, Jr., Attorney-Advisor, Office of General Counsel, telephone: (202) 632–4870.

17. a. Part 742, Liquidity Reserves of Insured Credit Unions, to require federally insured credit unions to maintain liquid asset holdings in amounts not less than 5% of total member accounts and notes payable.

b. *Need:* To ensure that federally insured credit unions can meet significant and, perhaps, unexpected outflows of funds without liquidating valuable investment and loan assets; to provide protection against untimely sale of valuable assets possibly leading to insolvency and credit union failures.

Legal Basis: 12 U.S.C. §§ 1762(b), 1766(a), and 1781(b)(6).

c. *Status:* Proposed regulation issued June 8, 1979 (44 FR 33094); comment period closes July 25, 1979.

d. *For Further Information Contact:* Robert H. Dugger, Acting Director, Office of Policy Analysis, telephone: (202) 633–6775; Robert M. Fenner, Assistant General Counsel, Office of General Counsel, telephone: (202) 632–4870.

e. Regulatory analysis has been drafted.

18. a. § 701.2, 701.14, and 701.15 Incorporation by Reference, listing and description of NCUA manuals having the force and effect of regulations.

b. *Need:* To give important technical requirements the force and effect of law.

Legal Basis: 5 U.S.C. § 552(a)(1).

c. *Status:* Recommendation submitted to the Chairman for eliminating certain publications from the list of those incorporated by reference, and thereby changing their status to guidelines. Staff preparing draft of public notice and amendment of the regulation.

d. *For Further Information Contact:* Robert S. Monheit, Senior Attorney, Office of General Counsel, telephone: (202) 632–4870.

19. a. § 701.21–6A Agency Relationship with Approved Mortgage Lender, to permit Federal credit unions to act as agents for approved mortgage lenders.

b. *Need:* To provide mortgage loans to members of those Federal credit unions that are unable to otherwise provide such loans.

Legal Basis: 12 U.S.C. § 1757(5)(A) and (15); 12 U.S.C. § 1766.

c. *Status:* Preliminary review approved by Chairman June 6, 1979; draft provisions being reviewed by staff.

d. *For Further Information Contact:* Robert M. Fenner, Assistant General Counsel or John L. Culhane, Jr., Attorney-Advisor, Office of General Counsel, telephone: (202) 632–4870.

Review of Regulations

The following is a list of regulations to be reviewed in the future. The purpose of the review will be to update, clarify, and simplify existing regulations, and to eliminate redundant and unnecessary provisions. These regulations are divided into two groups. The first grouping contains those regulations in which substantial progress has been made (since the last publication of the Agenda) and includes a statement concerning the status of the review. The second grouping contains those regulations yet to be reviewed.

A. Regulations Reviewed.

1. a. §§ 701.2, 701.14, and 701.15, Incorporation by Reference, review to determine whether the manuals listed should have the force and effect of law.

b. *Status:* Recommendations submitted to Chairman. See: Regulations Under Development, No. 18 (above).

c. *For Further Information Contact:* Robert S. Monheit, Senior Attorney, Office of General Counsel, telephone: (202) 632–4870.

2. a. §§ 701.6, 701.7, and 701.8, Fees for Supervision and for Examination of Federal Credit Unions, and for Examination of Federal Credit Unions in Liquidation, review to replace the present fee system with an operating fee.

b. *Status:* Final Regulation issued, See: Regulations Under Development, No. 12 (above).

c. *For Further Information Contact:* John R. Sander, Office of the Comptroller, telephone: (202) 254–9825.

3. a. §§ 701.16 and 701.17, Statements of Policy, List of Federal Credit Unions, review to consolidate these regulations with the regulation on availability of information, Part 720, subpart B of NCUA's Rules and Regulations.

b. *Status:* NCUA Instruction on interpretations and policy statements issued; first Interpretive Ruling and Policy Statement (IRPS 79–1), published April 12, 1979 (44 FR 21762).

c. *For Futher Information Contact:* Robert S. Monheit, Senior Attorney, Office of General Counsel, telephone: (202) 632–4870.

4. a. § 701.24, Refund of Interest, review of question of uniform percentage.

b. *Status:* Final Regulation issued, See: Regulations Under Development, No. 13, above.

c. *For Further Information Contact:* Robert M. Fenner, Assistant General Counsel, Office of General Counsel, telephone: (202) 632–4870.

5. a. §§ 701.27–1, 701.27–2, and 701.28, Purchase and Sale of Accounting Services, Accounting Service Center, and Joint Operations, review to consolidate and update in light of the proposed § 701.27–2, Credit Union Service Corporation.

b. *Status:* Final regulation on § 701.27–2 issued, See: Regulations Under Development, No. 1 (above).

c. *For Further Information Contact:* Layne Bumgardner, Division of Examination, Office of Examination and Insurance, telephone: (202) 254–8760; Todd A. Okun, Senior Attorney, Office of General Counsel, telephone: (202) 632–4870.

6. a. § 701.35, Share Accounts and Share Certificate Accounts, review to simplify language.

b. *Status:* Final regulation issued, See: Regulations Under Review, No. 14 (above).

c. *For Further Information Contact:* J. Leonard Skiles, Deputy General Counsel, Office of General Counsel, telephone: (202) 632–4870.

7. a. Part 710, Voluntary Liquidation, review to determine whether regulations on this subject are necessary or whether the subject may be covered in a manual.

b. *Status:* Final edit of manual on this subject forwarded to NCUA offices for comment.

c. *For Further Information Contact:* William Berens, Division of Chartering and Insurance, Office of Examination and Insurance, telephone: (202) 254–8760.

8. a. Part 722, Advisory Committee Procedures, to be eliminated upon termination of the NCU Board.

b. *Status:* Part 722 repealed June 12, 1979 (44 FR 33675).

c. *For Further Information Contact:* Beatrix D. Fields, Staff Attorney, Office of General Counsel, telephone: (202) 632–4870.

9. a. Part 747, Subparts B, C, and D, Rules of Practice and Procedure for Involuntary Termination of Insured Status, for Cease and Desist Orders, and for Suspension and Removal Orders, review to determine whether to eliminate provisions that merely duplicate the Federal Credit Union Act.

b. *Status:* Regulation drafted and under review by NCUA offices.

c. *For Further Information Contact:* James J. Engel, Assistant General Counsel, Office of General Counsel, telephone: (202) 632–4870.

B. Regulations to Be Reviewed

1. §§ 701.3 and 701.4, Standard Form of Bylaws and Amendment of Bylaws, review to determine whether the regulations on this subject are necessary.

For Further Information Contact: Jon Lander, Division of Chartering and Insurance, Office of Examination and Insurance, telephone: (202) 254–9810.

2. § 701.10, Establishment of Cash Fund, review to determine whether a regulation is necessary on this subject.

For Further Information Contact: Jerry Courson, Division of Examination, Office of Examination and Insurance, telephone: (202) 254–8760.

3. §§ 701.11, and 701.13, Election Report, and Financial and Statistical and Other Reports, review to determine whether the regulation is necessary to require submission of needed reports.

For Further Information Contact: Jerry Courson, Division of Examination, Office of Examination and Insurance, telephone: (202) 254–8760.

4. § 701.12, Supervisory Committee Audit, review to determine whether the regulation on this subject is necessary or whether the subject might be covered in a manual.

For Further Information Contact: Mike Fischer, Special Assistant to the Assistant Administrator, Office of Examination and Insurance, telephone: (202) 254–8760.

5. §§ 701.22 and 701.23, Selling and Cashing Checks and Money Orders, review to determine whether the regulations on this subject are necessary or whether the subject may be covered in a manual.

For Further Information Contact: Thomas A. Straslicka, Division of Examination, Office of Examination and Insurance, telephone: (202) 254–8760.

6. § 701.30, Safe Deposit Box Service, review to consolidate with regulations on Minimum Security Devices and Procedures, Part 748 of NCUA's Rules and Regulations.

For Further Information Contact: Wilmer Theard, Division of Examination, Office of Examination and Insurance, telephone: (202) 254–8760.

7. Part 703, Investments and Deposits, review to update in light of proposed § 703.3.

For Further Information Contact: Robert Schafer, Division of Examination, Office of Examination and Insurance, telephone: (202) 254–8760.

8. Parts 706 and 707, Conversion from Federal to State Credit Union, and Conversion from State to Federal Credit Union, review to determine whether the regulations on this subject are necessary or whether the subject may be covered in a manual.

For Further Information Contact: Jon Lander, Division of Chartering and Insurance, Office of Examination and Insurance, telephone: (202) 254–8760.

9. Parts 708 and 709, Mergers of Credit Unions, Division of Assets, Liabilities, and Capital, review to determine whether regulations on these subjects are necessary or whether they may be covered in a manual.

For Further Information Contact: Jon Lander, Division of Chartering and Insurance, Office of Examination and Insurance, telephone: (202) 254–8760.

10. Part 735, Employee Responsibility and Conduct, review to update.

For Further Information Contact: James J. Engel, Assistant General Counsel, Office of General Counsel, telephone: (202) 632–4870.

11. Part 748, Minimum Security Device and Procedures, review to update and simplify in view of the needs of Federal credit unions.

For Further Information Contact: Stephen Raver, Director, Division of Examination, Office of Examination and Insurance, telephone: (202) 254–8760.

Lawrence Connell,

Chairman.

June 27, 1979.

[FR Doc. 79-20390 Filed 6-29-79; 8:45 am]

[BILLING CODE 7535—01—M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 61 and 63]

[Docket No. 19300; Notice No. 79-12]

Proposed Special Purpose Pilot, Flight Engineer, and Flight Navigator Certificates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes the issuance of special purpose airman certificates to foreign pilots and other foreign flight crewmembers. This action would permit those persons to operate certain U.S.-registered civil airplanes, leased by persons not citizens of the United States, for the carriage of persons and property for compensation or hire. The proposal is issued in response to numerous petitions for exemptions requesting that foreign pilots and other flight crewmembers be eligible for the issuance of U.S. airman certificates to enable them to operate these airplanes.

DATE: Comments must be received on or before September 28, 1979.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–24), Docket No. 19300, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Raymond E. Ramakis, Regulatory Projects Branch, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 755–8716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before September 28, 1979, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

Discussion of the Proposed Rule

Numerous petitions for exemptions have been received by the FAA requesting that foreign pilots and other foreign flight crewmembers be eligible for the issuance of U.S. airman certificates, so that they may act as flight crewmembers on certain U.S.-registered civil airplanes, leased by persons not citizens of the United States, for the purpose of carrying persons and property for compensation or hire. This is necessary because, although these foreign airmen hold current appropriate certificates, licenses, or authorizations issued by contracting States to the Convention on International Civil Aviation, under section 610(a) of the Federal Aviation Act of 1958 (the Act) only persons holding appropriate U.S. airman certificates may serve as required flight

crewmembers on U.S.-registered aircraft.

Sections 61.3 (a) and (c) and 63.3 (a) and (b) of the Federal Aviation Regulations require that a person who performs the duties of a pilot, flight engineer, or flight navigator on a civil aircraft of U.S. registry hold a current appropriate certificate issued under Part 61 or 63 and a medical certificate issued under Part 67. Further, § 61.55 specifies the qualifications and recent experience requirements for second-in-command pilots on large and multiengine turbojet-powered airplanes type certificated for more than one required pilot flight crewmember. Sections 61.57 and 61.58 specify the recent flight experience, flight review, and proficiency or flight check required of pilots in command.

Under §§ 61.75 and 63.42, holders of current foreign pilot and foreign flight engineer licenses issued by contracting States to the Convention on International Civil Aviation may have certificates issued to them for the operation of U.S.-registered civil aircraft. However, under those sections, although the pilot and flight engineer can be paid for the operation of U.S.-registered civil aircraft, they cannot operate those aircraft if they carry persons or property for compensation or hire.

Under section 305 of the Act, the FAA is required to encourage and foster the development of civil aeronautics and air commerce in the United States and abroad. The leasing of U.S. aircraft is an important stimulus to the U.S. aviation industry.

The FAA recognizes that foreign pilot, flight engineer, and flight navigator licenses issued by contracting States to the Convention on International Civil Aviation evidence skills equivalent to those for which certificates are issued under Parts 61 and 63 of the Federal Aviation Regulations. Accordingly, the adoption of a rule permitting the operation of leased U.S.-registered civil airplanes by these foreign airmen, for the carriage of persons or property for compensation or hire, would not adversely affect safety.

To provide for the issuance of these U.S. airman certificates, two new sections would be added to the Federal Aviation Regulations. Section 61.77 would provide for special purpose pilot certificates, and § 63.23 would provide for special purpose flight engineer and flight navigator certificates. To avoid confusion, § 63.42 would be amended to change its title from "Special purpose flight engineer certificate" to "Flight engineer certificate issued on basis of a foreign flight engineer license." The title change more accurately reflects the contents of the section and makes it consistent with § 61.75, a parallel section for pilot certificates.

Under this proposal, the pilot, flight engineer, or flight navigator (or a representative of that person) applying for the special purpose certificate would be required to present to the administrator a current foreign pilot, flight engineer, or flight navigator certificate, license, or authorization issued by a foreign contracting State, or a facsimile acceptable to the Administrator. The applicant would also have to present a current certification by the lessee of the airplane stating: (1) that the applicant is employed by the lessee; (2) the airplane type on which the applicant will perform the flight crewmember duties; and (3) that the applicant has received appropriate ground and flight instruction. Finally, the applicant (or a representative of the applicant) would be required to submit documentation showing that the applicant currently meets the medical standards required by the foreign certificate, license, or authorization on which the application is based, and, in the case of a pilot, that the applicant has not reached the age of 60.

The special purpose certificate would be based solely upon the applicant's foreign certificate, license, or authorization. It would be valid only while that document is valid and current, and while the holder meets the medical requirements for that document. Issuance of a medical certificate under Part 67 of the Federal Aviation Regulations would not meet this requirement unless the State issuing the foreign certificate, license, or authorization accepts a Part 67 medical certificate as evidence of the applicant's medical fitness.

After issuance, the holder of a special purpose certificate would be able to exercise the same privileges as those shown on his or her foreign certificate or license.

The certificate holder would not be required to comply with §§ 61.55 (Second in command qualifications: Operation of large airplanes or turbojet-powered multiengine airplanes), 61.57 (Recent flight experience: Pilot in command), and 61.58 (Pilot in command proficiency check: Operation of aircraft requiring more than one required pilot). The FAA has determined that it is not necessary to prescribe currency and checking requirements, in addition to those prescribed by the contracting State for the issuance and retention of a pilot license, in order to maintain a level of safety equivalent to that provided by these sections.

A special purpose certificate issued under proposed § 61.77 or § 63.23 would only be valid for flights between foreign countries and for flights in foreign air commerce. These certificates could not be used for operating U.S.-registered airplanes, leased by persons not citizens of the U.S., for flights in interstate, intrastate, or overseas air commerce. Flights of these airplanes within a foreign country are covered in §§ 61.3(a) and 63.3 (a) and (b) which permit those flights if the pilot, flight engineer, or flight navigator has a current appropriate license issued by the country in which the airplane is operated.

The issuance of these special purpose certificates would be limited to airplane types that can have a maximum seating configuration, excluding any flight crew member seat, of more than 30 seats or a maximum payload capacity of more than 7,500 pounds. This limitation is proposed because the FAA is not aware of any leased U.S.-registered airplanes of a smaller capacity, or aircraft other than airplanes, for which these certificates would be needed to carry persons or property for compensation or hire in foreign air commerce.

A special prupose certificate would be conditioned on the validity of the airman's foreign certificate, license, or authorization and on the existence of the lease agreement. A special purpose certificate would only be valid while the holder—(1) has in his or her personal possession the special purpose pilot certificate and the current foreign certificate, license, or authorization upon which the special purpose certificate is based; (2) is employed by the person leasing the aircraft; (3) is performing the duties of a pilot, flight engineer, or flight navigator, as appropriate, on the specific airplane type described in the certification required for issuance of the certificate; and (4) has in his or her personal possession the current medical documentation required for the issuance of the certificate. The certificate issued would contain a specific reference to these limitations. Finally, the certificate would be subject to any necessary additional limitations placed on the certificate by the Administrator.

The certificates issued under proposed § 61.77 and 63.23 would automatically terminate when one of the following occurs: (1) when the lease agreement terminates; (2) when the foreign certificate, license, or authorization, or the medical documentation is suspended, revoked,

or no longer valid for whatever reason; (3) after 24 months after the month in which the special purpose certificate was issued; or (4), in the case of a pilot, when the certificate holder reaches the age of 60. The requirements for renewal of a special purpose certificate would be the same as for issuance of the original certificate.

Finally, the certificate holder would be required to surrender the special purpose certificate to the Administrator within 7 days after the date it terminates.

The Purposed Amendments

Accordingly, the Federal Aviation Administration proposes to amend Parts 61 and 63 of the Federal Aviation Regulations (14 CFR Parts 61 and 63), as follows: 1. By adding a new § 61.77 to read as follows:

§ 61.77 Special purpose pilot certificate: Operation of U.S.-registered civil airplanes leased by a person not a U.S. citizen.

(a) *General.* The holder of a current foreign pilot certificate or license issued by a foreign contracting State to the Convention on International Civil Aviation, who meets the requirements of this section, may hold a special purpose pilot certificate authorizing the holder to perform pilot duties on a civil airplane of U.S. registry, leased by a person not a citizen of the United States, carrying persons or property for compensation or hire. Special purpose pilot certificates are issued under this section only for airplane types that can have a maximum passenger seating configuration, excluding any flight crew member seat, of more than 30 seats or a maximum payload capacity (as defined in § 135.2(e) of this chapter) of more than 7,500 pounds.

(b) *Eligibility.* to be eligible for the issuance or renewal of a certificate under this section, an applicant or a representative of the applicant must present the following to the Administrator:

(1) A current foreign pilot certificate or license, issued by the aeronautical authority of a foreign contracting State to the Convention on International Civil Aviation, or a facsimile acceptable to the Administrator. The certificate or license must authorize the applicant to perform the pilot duties to be authorized by a certificate issued under this section on the same airplane type as the leased airplane.

(2) A current certification by the lessee of the airplane—

(i) Stating that the applicant is employed by the lessee;

(ii) Specifying the airplane type on which the applicant will perform pilot duties; and

(iii) Stating that the applicant has received ground and flight instruction which qualifies the applicant to perform the duties to be assigned on the airplane.

(3) Documentation showing that the applicant has not reached the age of 60 and that the applicant currently meets the medical standards for the foreign pilot certificate or license required by paragraph (b)(1) of this section; except that a U.S. medical certificate issued under Part 67 of this chapter is not evidence that the applicant meets those standards unless the State which issued the applicant's foreign pilot certificate or license accepts a U.S. medical certificate as evidence of medical fitness for a pilot certificate or license.

(c) *Privileges.* The holder of a special purpose pilot certificate issued under this section may exercise the same privileges as those shown on the certificate or license specified in paragraph (b)(1), subject to the limitations specified in this section. The certificate holder is not subject to the requirements of §§ 61.55, 61.57, and 61.58 of this part.

(d) *Limitations.* Each certificate issued under this section is subject to the following limitations:

(1) It is valid only—

(i) For flights between foreign countries or for flights in foreign air commerce;

(ii) While it and the foreign pilot certificate or license required by paragraph (b)(1) of this section are in the certificate holder's personal possession and are current;

(iii) While the certificate holder is employed by the person leasing the airplane described in the certification required by paragraph (b)(2) of this section;

(iv) While the certificate holder is performing pilot duties on the U.S.-registered civil airplane described in the certification required by paragraph (b)(2) of this section;

(v) While the medical documentation required by paragraph (b)(3) of this section is in the certificate holder's personal possession and is currently valid; and

(vi) While the certificate holder is under 60 years of age.

(2) Each certificate issued under this section contains the following:

(i) The name of the person leasing the U.S.-registered civil aircraft.

(ii) The type of aircraft.

(iii) The limitation: "Issued under, and subject to, § 61.77 of the Federal Aviation Regulations."

(iv) The limitation: "Subject to the privileges and limitations shown on the holder's foreign pilot certificate or license."

(3) Any additional limitations placed on the certificate which the Administrator considered necessary.

(e) *Termination.* Each special purpose pilot certificate issued under this section terminates—

(1) When the lease agreement for the airplane described in the certification required by paragraph (b)(2) of this section terminates;

(2) When the foreign pilot certificate or license, or the medical documentation, required by paragraph (b) of this section is suspended, revoked, or no longer valid;

(3) When the certificate holder reaches the age of 60; or

(4) After 24 months after the month in which the special purpose pilot certificate was issued.

(f) *Surrender of certificate.* The certificate holder shall surrender the special purpose pilot certificate to the Administrator within 7 days after the date it terminates.

(g) *Renewal.* The certificate holder may have the certificate renewed by complying with the requirements of paragraph (b) of this section at the time of application for renewal.

2. By adding a new § 63.23 to read as follows:

§ 63.23 Special purpose flight engineer and flight navigator certificates: Operation of U.S.-registered civil airplanes leased by a person not a U.S. citizen.

(a) *General.* The holder of a current foreign flight engineer or flight navigator certificate, license, or authorization issued by a foreign contracting State to the Convention on International Civil Aviation, who meets the requirements of this section, may hold a special purpose flight engineer or flight navigator certificate, as appropriate, authorizing the holder to perform flight engineer or flight navigator duties on a civil airplane of U.S. registry, leased by a person not a citizen of the United States, carrying persons or property for compensation of hire. Special purpose flight engineer and flight navigator certificates are issued under this section only for airplane types that can have a maximum passenger seating configuration, excluding any flight crew member seat, of more than 30 seats or a maximum payload capacity (as defined in § 135.2(e) of this chapter) of more than 7,500 pounds.

(b) *Eligibility.* To be eligible for the issuance, or renewal, of a certificate under this section, an applicant must present the following to the Administrator:

(1) A current foreign flight engineer or flight navigator certificate, license, or authorization issued by the aeronautical authority of a foreign contracting State to the Convention on International Civil Aviation or a facsimile acceptable to the Administrator. The certificate or license must authorize the applicant to perform the flight engineer or flight navigator duties to be authorized by a certificate issued under this section on the same airplane type as the leased airplane.

(2) A current certification by the lessee of the airplane—

(i) Stating that the applicant is employed by the lessee;

(ii) Specifying the airplane type on which the applicant will perform flight engineer or flight navigator duties; and

(iii) Stating that the applicant has received ground and flight instruction which qualifies the applicant to perform the duties to be assigned on the airplane.

(3) Documentation showing that the applicant currently meets the medical standards for the foreign flight engineer or flight navigator certificate, license, or authorization required by paragraph (b)(1) of this section, except that a U.S. medical certificate issued under Part 67 of this chapter is not evidence that the applicant meets those standards unless the State which issued the applicant's foreign flight engineer or flight navigator certificate, license, or authorization accepts a U.S. medical certificate as evidence of medical fitness for a flight engineer or flight navigator certificate, license, or authorization.

(c) *Privileges.* The holder of a special purpose flight engineer or flight navigator certificate issued under this section may exercise the same privileges as those shown on the certificate, license, or authorization specified in paragraph (b)(1), subject to the limitations specified in this section.

(d) *Limitations.* Each certificate issued under this section is subject to the following limitations:

(1) It is valid only—

(i) For flights between foreign countries and for flights in foreign air commerce;

(ii) While it and the certificate, license, or authorization required by paragraph (b)(1) of this section are in the certificate holder's personal possession and are current;

(iii) While the certificate holder is employed by the person leasing the airplane described in the certification required by paragraph (b)(2) of this section;

(iv) While the certificate holder is performing flight engineer or flight navigator duties on the U.S.-registered civil airplane described in the certification required by paragraph (b)(2) of this section; and

(v) While the medical documentation required by paragraph (b)(3) of this section is in the certificate holder's personal possession and is currently valid.

(2) Each certificate issued under this section contains the following:

(i) The name of the person leasing the U.S.-registered civil airplane.

(ii) The type of airplane.

(iii) The limitation: "Issued under, and subject to, § 63.23 of the Federal Aviation Regulations."

(iv) The limitation: "Subject to the privileges and limitations shown on the holder's foreign flight (engineer or navigator) certificate, license, or authorization."

(3) Any additional limitations placed on the certificate which the Administrator considers necessary.

(e) *Termination.* Each special purpose flight engineer or flight navigator certificate issued under this section terminates—

(1) When the lease agreement for the airplane described in the certification required by paragraph (b)(2) of this section terminates;

(2) When the foreign flight engineer or flight navigator certificate, license, or authorization, or the medical documentation required by paragraph (b) of this section is suspended, revoked, or no longer valid; or

(3) After 24 months after the month in which the special purpose flight engineer or flight navigator certificate was issued.

(f) *Surrender of certificate.* The certificate holder shall surrender the special purpose flight engineer or flight navigator certificate to the Administrator within 7 days after the date it terminates.

(g) *Renewal.* The certificate holder may have the certificate renewed by complying with the requirements of paragraph (b) of this section at the time of application for renewal.

§ 63.43 [Amended]

3. By amending § 63.42 by deleting the words "Special purpose flight engineer certificate" in the title and substituting in their place the words "Flight engineer certificate issued on basis of a foreign flight engineer license."

(Secs. 313(a), 601, and 602, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1422); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(C)).)

Note.—The Federal Aviation Administration has determined that this document involves proposed regulations which are not significant under the procedures and criteria required by Executive Order 12044, and implemented by the Department of Transportation Regulatory Policies and Procedures published in the **Federal Register** February 26, 1979 (44 FR 11034). In addition, the Federal Aviation Administration has determined that the expected impact of the proposed regulations is so minimal that they do not require an evaluation.

Issued in Washington, D.C., on June 21, 1979.

James M. Vines,

Acting Director, Flight Standards Service.

[FR Doc. 79-19971 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-ASW-22]

Proposed Alteration of Transition Area: Del Rio, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose alteration of the transition area at Del Rio, Tex. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing new instrument approach procedures to the Del Rio International Airport. The circumstances which created the need for the action are the proposed relocation of the existent nondirectional radio beacon (NDB) to 6.29 miles northwest of the airport, and the proposed establishment of a partial instrument landing system (ILSP) to Runway 13.

DATES: Comments must be received by August 2, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following locations: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Manuel R. Hugonnett, Airspace and Procedures Branch, ASW-536, Air

Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624–4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Alteration of the transition area at Del Rio, Tex., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before August 1, 1979, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become a part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedure Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Del Rio, Tex. The FAA believes this action will enhance IFR operations at the Del Rio International Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the relocated NDB and the proposed ILSP. Subpart G of Part 71 was republished in the **Federal Register** on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviaiton Regulations (14 CFR Part 71) as republished (44 FR 442) by altering the Del Rio, Tex., transition area by adding the following:

Del Rio, Tex.

. . . and 2 miles each side of the 331° bearing from the LOM (Latitude 29°26'43.37"N., Longitude 100°59'20.13".), extending from the LOM to 8.5 miles northwest of the LOM.

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

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (944 FR 11034; February 26, 1979.) Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas, on June 20, 1979.

Henry N. Stewart,

Acting Director, Southwest Region.

[FR Doc. 79-20323 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-CE-15]

Proposed Alteration of Transition Area—Estherville, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Estherville, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Estherville, Iowa Municipal Airport utilizing the Estherville VOR as a navigational aid.

DATES: Comments must be received on or before August 5, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE–537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before August 5, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 374–3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Estherville, Iowa. To enhance

airport usage, an additional instrument approach procedure to the Estherville, Iowa Municipal Airport has been established utilizing the Estherville VOR as a nagivational aid. The establishment of a new instrument approach procedure based on these facilities entails alteration of the transition area at and above 700 feet above ground level (AGL) within which aircraft will be provided additional controlled airspace protection. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979, (44 FR 442) by altering the following transition area:

Estherville, Iowa

That airspace extending upward from 700 feet above the surface within a 6½ mile radius of the Estherville Municipal Airport (Latitude 43°24'15"N; Longitude 94°44'45"W); and within 3 miles each side of the 175° bearing from the Estherville VOR (Latitude 43°24'37"N; Longitude 94°44'20"W), extending from the 6½ mile radius area to 8½ miles south of the VOR; and within 3 miles each side of the 340° bearing from the Estherville VOR extending from the 6½ mile radius area to 8½ miles north of the VOR.

(Sec. 307(a), Federal Avaiation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on June 20, 1979.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 79-20328 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-CE-16]

Proposed Designation of Transition Area—Crete, Nebr.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to designate a 700-foot transition area at Crete, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Crete, Nebraska Municipal Airport utilizing the Lincoln, Nebraska VHF OMNI Directional Range as a navigational aid.

DATES: Comments must be received on or before August 5, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before August 5, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR Section 71.181) by designating a 700-foot transition area at Crete, Nebraska. To enhance airport usage, a new instrument approach procedure to the Crete, Nebraska Municipal Airport is being established utilizing the Lincoln, Nebraska VHF OMNI Directional Range as a navigational aid. The establishment of a new instrument approach procedure based on this navigational aid entails designation of a transition area at Crete, Nebraska, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979, (44 FR 442) by adding the following new transition area:

Crete, Nebr. airspace extending upward from 700 feet above the surface within a 6½ mile radius of the Crete Municipal Airport (latitude 40°37'30"N, longitude 96°55'45"E); exluding that portion within the Lincoln, Nebraska transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).)

Note.-The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are

necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on June 20, 1979.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 79-20327 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-ASW-21]

Proposed Alteration of Transition Area: Port Isabel, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of the action being taken is to propose alteration of a transition area at Port Isabel, Tex. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Port Isabel Cameron County Airport. The circumstance which created the need for the action is the proposed established of a new instrument approach procedure to Runway 17 at Port Isabel Cameron County Airport using the Brownsville VORTAC.

DATE: Comments must be received by August 2, 1979.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Manuel R. Hugonnett, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Alteration of the transition area at Port Isabel, Tex., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, veiws, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received within 30 days after publication of this notice in the **Federal Register** will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Port Isabel, Tex. The FAA believes this action will enhance IFR operations at the Port Isabel Cameron County Airport by providing additional controlled airspace for aircraft executing the proposed instrument approach procedure for Runway 17. Subpart G of Part 71 was republished in the **Federal Register** on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) by altering the Port Isabel, Tex., transition area by adding the following:

Port Isabel, Tex.

* * * and within 2 miles each side of the Brownsville, Tex., VORTAC 005° radial extending 1 mile north of the 5-mile radius area.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas on June 20, 1979.

Henry N. Stewart,

Acting Director, Southwest Region.

[FR Doc. 79-20324 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

[Airspace Docket No. 79-EA-25]

Proposed Alteration of Transition Area: Tri-City, Tenn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to alter the Tri-City, Tenn., Transition Area. A new NDB-A instrument approach procedure at Virginia Highlands Airport, Abingdon, Va. is in development. To provide controlled airspace for this procedure will require alteration of the 700-foot floor transition area. This alteration will provide protection to aircraft executing the new and revised instrument approaches by increasing the controlled airspace. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before August 30, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace

and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before August 2, 1979, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Tri-City, Tenn., transition area. The alteration would add approximately one mile in width on the southwest side of the northeast extension and extend the extension approximately 2½ miles to the northeast.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend Section 71.181 of the Federal Aviation Regulations so as to amend the description of the Tri-City, Tenn., 700-foot floor transition area as follows:

In the text delete, "including the airspace within 2 miles each side of Virginia Highlands Airport Runway 6 extended centerline, extending from the arc of a 30-mile radius circle centered on Tri-City Airport to 7.5 miles northeast of Virginia Highlands Airport;" and substitute therefore, "including the airspace within 3 miles each side of the Abingdon, Va. NDB 36°42'35"N., 81°59'15"W., 059° bearing, extending from the arc of a 30-mile radius circle centered on Tri-City Airport to 8.5 miles northeast of the Abingdon NDB;"

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

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 Jamaica, New York, on May 30, 1979.

Brian J. Vincent,

Acting Director, Eastern Region.

[FR Doc. 79-20325 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

[16 CFR Part 423]

Care Labeling of Textile Products and Leather Wearing Apparel; Scheduling of Oral Presentation Before Commission

AGENCY: Federal Trade Commission.

ACTION: Scheduling of oral presentation before Commission.

SUMMARY: The Federal Trade Commission has scheduled an oral presentation on proposed revisions to its trade regulation rule relating to the care labeling of textile products and leather wearing apparel. (41 FR 3747, January 26, 1976) Invitations to participate in this meeting have been extended to the ten designated group representatives in the rulemaking proceeding. In addition, the Commission invites requests to participate from other interested parties who have participated in the rulemaking proceeding.

DATE: Interested parties who wish to participate in the oral presentation must submit their requests before July 17, 1979.

ADDRESS: Requests to make an oral presentation should be sent to: Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. They should be identified as "Request To Make Oral Presentation—Care Labeling Rule." If possible, four copies should be supplied.

The oral presentations will begin at 1:00 P.M. at an open Commission meeting, on July 18, 1979, in Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: John F. LeFevre, Attorney, Room 528-A, Indiana Building, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1175; or Earl W. Johnson, Attorney, Room 7213, Star Building, Federal Trade Commission, Washington, D.C. 20580, (202) 724-1362.

SUPPLEMENTARY INFORMATION: The Commission is ready to begin considering final action on proposed revisions to its trade regulation rule relating to the care labeling of textile products and leather wearing apparel. A staff memorandum of June 15, 1979, a draft Final Trade Regulation Rule Relating to the Care Labeling of Textile Products and Leather Wearing Apparel, *as amended*, a staff memorandum of February 23, 1979, and a staff summary of the post-record comments have been placed on the public record. To provide interested parties with the fullest possible opportunity to make their views known to the Commission, oral presentations will be made at an open meeting of the Commission on July 18, 1979 in Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Each group representative will be allowed no more than 20 minutes for presentation.

Invitations to participate in this proceeding have been extended to the ten designated group representatives in the proceeding. The group representatives include participants from American Apparel Manufacturers Association, National Association of Furniture Manufacturers/Southern Furniture Manufacturers Association, the Carpet and Rug Institute, Textile Distributors Association, National Retail

Merchants Association, National Consumers League, American Textile Manufacturers Institute, International Fabricare Institute, the Clorox Company representing bleach manufacturers, and Waldes-Kohinoor Incorporated representing manufacturers of intermediate textile components. These parties have been chosen because of their previous participation in the proceeding and because they represent a variety of industry, consumer, and other interests.

The Commission also will entertain requests from other interested parties who wish to make an oral presentation. These requests to participate must be received on or before July 17, 1979. The Commission will use its discretion in selecting parties to make presentations, depending upon the volume of requests received. Each requester will be notified in advance of the meeting concerning their participation, and will be informed of the procedures to be followed. Funding through the public participation program may be available to eligible persons as defined in § 1.17 of the Commission's Rules of Practice and Procedures for this phase of the rulemaking proceeding.

Issued: June 21, 1979.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-20301 Filed 6-29-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

[19 CFR Part 141]

Proposed Amendment to the Customs Regulations Relating to Discharge of an Importer's Liability for Duties

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

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations by establishing an alternative procedure to provide that an importer who pays Customs duties on imported merchandise through a licensed customhouse broker may submit a separate check for the duties, payable to the U.S. Customs Service, to the broker. Presently, an importer often furnishes his broker one check covering both duties and the broker's fees and charges, and the broker then pays the duties to Customs on behalf of the importer. While this alternative procedure would not discharge the importer's personal liability for payment of duties, it will help ensure the importer that his payment will be received by Customs in a timely manner.

DATES: Comments must be received on or before August 31, 1979.

ADDRESSES: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 2335, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: James Bartley, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

Section 141.1(b), Customs Regulations (19 CFR 141.1(b)), provides that duties, both regular and additional, are a personal debt of the importer which may be discharged only by payment in full to Customs, unless relieved by law or regulation. Direct payment of duties from the importer to Customs is the usual method of payment. However, many importers use licensed customhouse brokers to transact Customs business on their behalf. In such cases, the importer often will issue the broker one check covering both broker's fees and charges and Customs duties, and the broker then will pay the duties to Customs by a check drawn on the broker's account.

Payment of the duties to the broker does not discharge the importer's personal liability because payment must be received by Customs before the liability is discharged. Submission of a Customs bond with an entry is solely for the protection of the revenue and does not relieve the importer of liabilities incurred as a result of his importing merchandise into the United States.

To aid importers in discharging their personal liability for the payment of duties, it is proposed to amend § 141.1(b) to establish an alternative procedure providing that importers may elect to submit a separate check for duties, payable to the "U.S. Customs Service", to the broker. Although payment of duties by a separate check to the broker would not discharge the importer's liability until the check is received by Customs, this alternative procedure, which has been in effect in the New York Customs Region since February 1977, could help ensure the importer that Customs receives the payment in a timely manner. An importer, of course, could continue to submit one check to the broker covering both the duties and the broker's fees and charges.

Comments

Before adopting this proposal, consideration will be given to any written comments submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Legal Publications Division, Room 2335, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Inapplicability of E.O. 12044

This document is not subject to the Treasury Department directive implementing Executive Order 12044, "Improving Government Regulations", because the proposal was in an advanced stage of preparation before May 22, 1978, the effective date of the directive.

Drafting Information

the principal author of this document was Shannon McCarthy, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Cutoms offices participated in its development.

Authority

This amendment is proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), and section 624, 46 Stat. 759 (19 U.S.C. 1624).

Proposed Amendment

It is proposed to amend paragraph (b) of § 141.1, Customs Regulations (19 CFR 141.1(b)), and the section heading thereto to read as follows:

§ 141.1 Liability of importer for duties.

(a) * * *

(b) *Payment of duties.*

(1) *Personal debt of importer.* The liability for duties, both regular and additional, attaching on importation consitututes a personal debt due from the importer to the United States which can be discharged only by payment in full of all duties legally accruing, unless relieved by law or regulation. It may be enforced notwithstanding the fact that an erroneous construction of law or regulation may have enabled the importer to pass his goods through the customhouse without payment. Submission of a Customs bond with an entry is solely to protect the revenue of the United States and does not relieve

the importer of liabilities incurred from the importation of merchandise into the United States.

(2) *Methods of payment.* An importer may pay duties to Customs directly or, if transacting Customs business through a licensed customhouse broker, may issue the broker either—

(i) One check covering both Customs duties and the broker's fees and charges, in which the broker shall pay the duties to Customs by a check drawn on the broker's account, or

(ii) Separate checks, one covering the duties payable to the "U.S. Customs Service", for transmittal by the broker to Customs, and the other covering the broker's fees and charges.

In any case, the importer remains personally liable for the duties until payment is received by Customs.

* * * * *

R. E. Chasen,

Commissioner of Customs.

Approved: June 18, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 79-20420 Filed 6-29-79; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Subtitles A and B]

[Docket No. N 79-936]

Improving Government Regulations; Semiannual Agenda of Significant Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of publication date of semiannual agenda of significant regulations under development or review.

SUMMARY: The date of publication of HUD's second semiannual agenda of significant regulations under development or review will be August 1, 1979.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Executive Order 12044 "Improving Government Regulations", (43 FR 12661) directs each executive agency to publish notice of when its semiannual agenda of significant regulations will be published. The Department indicated in the Federal Register of October 2, 1978 on page xiii that its second semiannual agenda would be published on June 15, 1979.

The date of publication of the second semiannual agenda is changed to August 1, 1979.

Authority: Section 2(a), Executive Order 12044, Improving Government Regulations.

Issued at Washington, D.C. on June 21, 1979.

Jay Janis,

Under Secretary, Department of Housing and Urban Development.

[FR Doc. 79-20384 Filed 6-29-79; 8:45 am]

BILLING CODE 4210-01-M

[24 CFR Part 58]

[N-79-680]

Transmittal of Interim Rule Regarding Community Development Block Grant Program Environmental Review Procedures to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

Part 58, CDBG Environmental Review Procedures

This interim rule amends 24 CFR Part 58 to reflect the NEPA regulations of the Council of Environmental Quality.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C. June 25, 1979.

Patricia Roberts Harris,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-20483 Filed 6-29-79; 9:40 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 31]

Wage and Tax Statements Furnished to Employees

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the requirement that employers furnish Form W-2, Wage and Tax Statement, to employees whose employment is terminated before the end of the year.

DATES: Written comments and requests for a public hearing must be delivered or mailed by August 31, 1979. The amendments are proposed to be effective on the date that final regulations are published in the Federal Register.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: David B. Cubeta of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3926).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Employment Tax Regulations (26 CFR Part 31) under section 6051 of the Internal Revenue Code of 1954. The proposed amendments are to be issued under the authority contained in section 6051(c) and 7805 of the Internal Revenue Code of 1954.

Explanation

These proposed regulations amend § 31.6051(d) to provide new rules concerning the time within which employers must furnish Forms W-2 to employees whose employment is terminated before the end of the calendar year. Under current regulations the employer must furnish the form to the employee within 30 days of the last

payment of wages. The proposed regulations provide that the employer may furnish the form at any time after the termination of employment but no later than January 31 of the following calendar year. However, if the employee requests that the form be furnished at an earlier time, the rule requires that the form be furnished within 30 days of the request or within 30 days after the last payment of wages, whichever is later.

The new rules are designed to reduce the paper work burden and expense of employers who must furnish statements to employees. The rules are also intended to reduce the number of forms that are lost by employees between the termination of employment and the end of the year.

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.**

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 31 are as follows:

§ 31.6051 [Deleted]

Paragraph 1. Section 31.6051 is deleted.

Par. 2. Paragraph (d) of § 31.6051–1 is amended by deleting subparagraph (2)(ii), by redesignating subparagraph (2)(i) as subparagraph (2), and by revising subparagraph (1) to read as follows:

§ 31.6051–1 Statements for employees.

* * * * *

(d) *Time for furnishing statements*—(1) *In general.* Each statement required by this section for a calendar year and each corrected statement required for the year shall be furnished to the employee on or before January 31 of the year succeeding such calendar year. If an employee's employment is terminated before the close of such calendar year, the employer, at his option, shall furnish the statement to the employee at any time after the termination but no later than January 31 of the year succeeding such calendar year. However, if an employee whose employment is terminated before the close of such calendar year requests the employer to furnish him the statement at an earlier time, and if there is no reasonable expectation on the part of both employer and employee of further employment during the calendar year, then the employer shall furnish the statement to the employee on or before the later of the 30th day after the day of the request or the 30th day after the day on which the last payment of wages is made. For provisions relating to the filing of the Internal Revenue Service copies of the statement, see § 31.6051–2.

* * * * *

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79–20425 Filed 6–29–79; 8:45 am]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 201]

[Notice No. 323]

Distilled Spirits Plant Losses After Tax Determination

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Notice of proposed rulemaking.

SUMMARY: This is a notice of proposed rulemaking to prescribe an increase in the amount of allowable losses occurring during bottling operations at distilled spirits plants. Present regulatory allowances are not providing adequate coverage for losses incurred by distilled spirits plants, as was intended by the law. The proposed regulatory changes are intended to more nearly cover actual losses without jeopardizing the revenue.

DATES: Comments must be received on or before August 1, 1979 (30 days after publication in the **Federal Register**).

ADDRESS: Send comments in duplicate to: Director, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044, Attn: Chief, Regulations and Procedures Division.

FOR FURTHER INFORMATION CONTACT: Norman Blake, Research and Regulations Branch, 202–566–7626.

SUPPLEMENTARY INFORMATION:

Background

Effective July 1, 1959, 26 U.S.C. Section 5008(c)(3)(A) provided a maximum allowable loss schedule for bottling losses based upon completions. In the regulations, under 27 CFR 201.485a, a schedule based upon the proof gallons of completions and providing for the maximum allowable losses for various size bottling operations was the result of a survey made of all bottling operations comparing completions and losses in 1953.

The schedule was formulated to insure that proprietors of distilled spirits plants would provide for minimum losses by running a closely supervised bottling operation and thereby provide adequate protection for the revenue.

The schedule established after enactment of law is, however, flexible. Authorization has been provided to the Secretary or his delegate to reduce or increase the amount of the maximum allowable losses in the schedule when he finds that such an adjustment is necessary to more nearly provide for the actual losses without jeopardy to the revenue. The only other stipulation in the law is that in no event shall allowable losses exceed 2 percent of total completions.

Treasury Decision ATF–31, effective July 1, 1976, addressed the problem of losses for cordials, liqueurs, cocktails, and other distilled spirits specialties. This decision afforded industry the opportunity to use a separate schedule (under 27 CFR 201.485a(b)(2)) for determining allowable losses resulting from the bottling of these products. In effect, it increased the operational loss allowance for these products. Initial indications are that this new procedure is assisting industry in more nearly providing coverage for actual bottling losses in this area.

Since issuance of T.D. ATF–31, the Bureau has received several petitions from the distilled spirits industry requesting an overall increase in the maximum allowable loss schedule. In response to these petitions, ATF initiated a study to determine whether the current schedule is adequately fulfilling the intent of the law.

The current general schedule, based on 1953 loss statistics, was devised to provide a maximum allowance which would cover all, or nearly all, normal and reasonable losses of at least a large majority of plants; but which would, by setting a reasonable limit, provide a measure of control sufficient to protect the revenue and not increase the administrative duties of ATF.

The Bureau's most recent study was completed in July of 1978. This study made comparisons of total completions, overall losses, non-recoverable losses, and the number of plants exceeding the allowable loss for the period 1973–77. The results show that since 1973, while there has been a decline in the number

of plants, there has been a 9 percent increase in the number of plants exceeding the loss allowance. However, the study also shows that there has been, overall, an increase in the percentage of allowed losses based on completions. Omitting the "Not over 24,000 proof gallon" category (since it is already at the statutory limitation); and the "24,000–120,000 proof gallon" category (since all losses were 100 percent covered), the schedule provided greater coverage in 1977 than in 1973 in the two completion categories of 120,001–600,000 proof gallons and 600,000–2,400,000 proof gallons and only slightly less in the final completon category of "over 2,400,000 proof gallons." Even with the decrease in this category, coverage was still at the 91 percent level.

The straight statistical analysis in and of itself does not entirely justify or negate a claim that the loss allowance schedule needs to be increased. However, the Bureau's study does show that may plants are not being compensated for their losses up to the statutory limit of 2 percent. Since 1958 many changes in distilling and bottling procedures (changes in filters and chill proofing), modernization of equipment (faster line speeds), and consumer preferences (demand for lower proof products and the trend to larger sizes) have made the original premises on which the current loss schedule is based obsolete. Also, apart from the tax, the value of the spirits lost has also drastically increased over the years. This is an additional incentive to industry for closer supervision and attentiveness to bottling operations and losses which in turn results in greater protection of the revenue.

Legislative intent made provisions in the law for increases in the schedule, up to a 2 percent maximum, when the original schedule was found not to be consistent with protection of the revenue or the increase was justifiable on the basis of actual losses. Therefore, in order to more fully comply with the intent of the law without increasing administrative costs in enforcing the statutory provisions, the Bureau proposes the following changes to the regulations.

Proposed Changes

Generally, the proposed amendments will eliminate a maximum loss schedule and impose a standard of loss allowance to be at the maximum statutory limit of 2 percent of total completions. In effect this will also eliminate the need for an optional schedule and the necessity for a separate computation for cordials, liqueurs, cocktails, mixed drinks, and specialties added to the regulations in 1976 by T.D. ATF–31. These proposed changes will also effect some minor, simplifying changes to ATF F 5110.13, Supporting Data.

In order to supplement these proposed changes, amendments are also proposed to the regulations incorporating prior legal rulings regarding inventories taken to support claims filed under this section. To increase protection of the revenue, physical inventories taken under this section will be required to support either tentative or final claims.

These proposed changes will more closely align the regulations with the intent of the law and remove the inadequancies of the original schedule due to numerous changes in plant operations, new products, new trends, and the higher cost of the product. It will not add any new administrative burden on the government or require the adoption of any new costly investigative techniques. It will eliminate extra forms and filing procedures for the alcoholic beverage industry and will not jeopardize the revenue.

Proposed Effective Date

In order to allow the proposed increased loss allowance for the computation year July 1, 1978, to June 30, 1979, it is proposed that these regulations will be effective July 1, 1978.

Public Participation

ATF requests comments from all interested person. Of particular interest are comments from industry members which present specific data as to current non-recoverable dollar losses due to the state of the present regulations dealing with normal bottling losses.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

After consideration of all comments and suggestions, ATF may issue a Treasury decision. The proposals discussed in this notice may be modified due to comments and suggestions received.

Disclosure of Comments

Copies of the proposed changes and of written comments will be available for public inspection under authority of 27 CFR 71.41(b) during normal business hours at the following location: Public Reading Room, Room 4408, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C.

ATF will not recognize any designation of material in comments as confidential or not to be disclosed, and any material that the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of any person submitting comments is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Director within the 60-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing should he held.

Drafting Information

The principal author of this document is Thomas B. Busey of the Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

Authority

Accordingly, under the authority contained in 26 U.S.C. 7805 (68A Stat. 917), 27 CFR Part 201 is amended as follows:

Subpart O—Losses After Tax Determination

Paragraph 1. Section 201.485a is completely amended to read as follows:

§ 201.485a Maximum allowable losses.

The proprietor will compute and claim operating losses collectively for all spirits. Loss allowances will be for actual losses incurred not to exceed 2 percent of total completions. The maximum allowable loss not to exceed 2 percent of all completions during the computation year in proof gallons applies to all products.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended (26 U.S.C. 5008))

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§ 201.486 [Amended]

Par. 2. Section 201.486 is amended to completely delete paragraph (c) and redesignate paragraph (d) to read (c).

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§ 201.488 [Amended]

Par. 3. Section 201.488 is amended to completely delete paragraph (b) and to redesignate the following paragraphs (c), (d), and (e), as (b), (c), and (d).

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Par. 4. Section 201.491 is amended to remove references to Page 2 of Form 2611 under § 201.485a (b)(1) and (b)(2). Amended section to read as follows:

§ 201.491 Claims and supporting data.

(a) Any person filing a claim under § 201.45(d) shall file with the claim as supporting data, ATF F 5110.13 to show computation of the losses described in §§ 201.485 and 201.487, as applicable. Proprietors shall prepare Page 2 of ATF F 5110.13 to support claims which include losses of Puerto Rican and/or Virgin Islands spirits.

(b) Any person filing a final claim for operational loss under §§ 201.485 and 201.487 shall file the final claim within 6 months of the close of the computation year.

(c) Any person filing a claim under § 201.45(c) to cover losses by accident or disaster as described in § 201.434 shall file the claim within 6 months from the date of the loss.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323 as amended, (26 U.S.C. 5008)).

Par. 5. Section 201.492 is amended to read as follows:

§ 201.492 Inventories.

Any proprietor intending to file claim under § 201.45(d) shall before beginning business on the first business day of the first period for which he intends to file claim (either tentative or final) and at the close of the last business day of each period for which any such claim (either tentative or final) is to be filed, take a physical inventory of all alcoholic ingredients that have been dumped for use in the production of spirits products and which are in process (i.e., those which are not "completions" as defined in § 201.11). The proprietor shall show, in the record of such inventory, the contents of each container in proof gallons, and as to each container, whether the contents are (a) spirits withdrawn by him from bond directly to his bottling premises for rectification or bottling, as provided in this part, or which are otherwise eligible for loss allowance by reason of the provisions of section 5008(c)(5), I.R.C., (b) other spirits, (c) wines which have been dumped for use in the manufacture of distilled spirits products, or (d) a mixture of such spirits or wines with each other, or with alcoholic flavoring or blending ingredients. The record of any inventory taken, under this section, for the first business day of the first period for which a proprietor intends to file a claim shall show as to paragraphs (c) and (d) of this section the proof gallons of each component comprising the contents of each container. Physical inventories required under the provisions of this section shall be taken under such supervision, or verified in such manner as the regional regulatory administrator may require. The proprietor shall record in similar detail the quantities of alcoholic ingredients on-hand which are not in process. The proprietor shall, at least 5 days in advance, advise the assigned officer, or the area supervisor, of the date and time he will take any physical inventory under this section.

(72 Stat. 1323; 26 U.S.C. 5008).

Signed: March 13, 1979.

J. R. Dickerson,

Director.

Approved: May 16, 1979.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 79–20443 Filed 6–28–79; 10:57 am]

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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 35]

[FRL 1260–3]

Sewage Treatment Grant Limitations Provided by Section 316 of the Clean Air Act; Advance Notice of Interim Policy and Procedures

AGENCY: Environmental Protection Agency.

ACTION: Notice of memorandum announcing intent to develop interim policy and procedures.

SUMMARY: Reproduced below is a copy of a memorandum in which the Assistant Administrator for Air, Noise, and Radiation and the Assistant Administrator for Water and Waste Management of the Environmental Protection Agency (EPA) summarize the elements proposed for inclusion in interim policy and procedures for implementing the sewage treatment great limitations in section 316 of the Clean Air Act, as amended. Section 316 allows the Administrator of EPA to condition, limit, or withhold sewage treatment grants funded under the Clean Water Act, if state air quality plans are inadequate or if air pollution emissions resulting directly or indirectly from proposed treatment works are not accounted for in the plans. This advance notice of intended policy and procedures is being issued to invite public participation in the development of an administrative mechanism to implement section 316 while revisions are being made to the appropriate EPA regulations. Comments are requested on the development of the interim policy and procedures, as well as on the provisions to be included in any subsequent regulations.

DATE: Written comments are due on or before August 1, 1979.

ADDRESS: Comments should be forwarded to: Cary B. Hinton, Office of Transportation and Land Use Policy (ANR–445), Environmental Protection Agency, 401 M Street SW., Room 901, West Tower, Washington, D.C. 20460.

All comments received will be available for examination by any interested person at the above address.

FOR FURTHER INFORMATION CONTACT:

Cary B. Hinton, Office of Transportation and Land Use Policy (ANR–445), Environmental Protection Agency (202) 755–0570.

Sylvia Lowrance, Office of Water Programs Operations (WH–547), Environmental Protection Agency (202) 755–8056.

Requests for information will be received from 9:00 a.m. to 4:30 p.m. E.D.T., Monday thru Friday.

In addition, a *toll free telephone "hot line"* will be available from July 2, 1979 to August 1, 1979 during the hours of 9:00 a.m.–4:00 p.m. E.D.T., Monday thru Friday, for purposes of answering related questions and recording public comment. Such comment will be limited to concise summary points and shall not include verbatim readings beyond short length written materials. If a high demand for telephone time is experienced, a 5-minute discussion limit will be imposed. The number to dial is *800–424–9097*.

SUPPLEMENTARY INFORMATION: This notice issues for public review and comment a proposed approach sent to EPA Regional Administrators for determining whether any limitations on federal assistance for the construction of sewage treatment works under the Clean Water Act, 33 U.S.C. 1251 *et seq.*, are necessary to implement section 316 of the Clean Air Act.

The approach includes:

- Assuring compliance with national emission standards established under sections 111 and 112 of the Clean Air Act.
- Accounting for direct and indirect air pollution emissions from sewage treatment works in state air quality plans.
- Conditioning, restricting, or withholding grants for sewage treatment works until measures for dealing with emissions that are not accounted for are

developed and a commitment to implement has been secured.

The policy and procedures to be established will provide an administrative mechanism for insuring that the provisions of section 316 of the Clean Air Act are applied consistently nationwide in areas that are not in attainment of national ambient air quality standards or that are subject to the requirements for the prevention of significant deterioration of air quality.

In order to insure that final action on policy and procedures can be taken at the earliest practical date, EPA has determined that a 30-day public comment period is warranted.

Issued on: June 26, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation Environmental Protection Agency.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management Environmental Protection Agency.

On June 8, 1979, the Assistant Administrator for Air, Noise, and Radiation and the Assistant Administrator for Water and Waste Management of EPA sent the following memorandum:

U.S. Environmental Protection Agency, Office of Air and Waste Management, *Washington, D.C. 20460.*

June 8, 1979.

Subject: Implementation of Section 316 of the Clean Air Act.

From: David G. Hawkins, Assistant Administrator for Air, Noise, and Radiation (ANR–443).

Thomas C. Jorling, Assistant Administrator for Water and Waste Management (WH–556).

To: Regional Administrators, Regions I–X.

Section 316 of the Clean Air Act gives the Administrator authority to condition, restrict or withhold grants for sewage treatment works if a State Implementation Plan (SIP) is inadequate or the air pollution emissions from a proposed facility are not adequately accounted for in the SIP. Our offices have agreed on a general approach for the implementation of section 316. This approach includes the establishment of an interim policy followed by revisions to the construction grant regulations.

We have asked the Office of Transportation and Land Use Policy (OTLUP) and the Office of Water Program Operations to immediately develop an interim policy and initiate revisions to the construction grant regulations. Both actions will be based on a mutually agreed upon process that includes the following:

- Assuring compliance of proposed sewage treatment works with sections 111 and 112 of the Clean Air Act.
- Determining whether a proposed facility meets threshold criteria for review.
- Determining if the facility is accounted for in the SIP.
- If the facility is accounted for, conditioning grant award to assure implementation and enforcement of SIP actions for which the grantee has responsibility.
- If the facility is *not* accounted for, conditioning, restricting, or withholding grant award until measures dealing with direct and indirect emissions are developed and incorporated in the SIP.

The administrative mechanism to implement section 316 policy is described in greater detail in the attachment to this memorandum. We request that your office review the approach and provide comments for the development of the interim policy by Friday, June 22, 1979. This memorandum and the attachment should be provided to all interested parties for their review. All public comments are intended for use in the development of the interim policy and revisions to the construction grant regulations.

A meeting of the section 316 work group will be scheduled during the week of June 25, 1979. The regional office representatives on the work group currently include:

Region VIII—John Philbrook, Bill Geise
Region IX—Frank Covington.

If you have additional members to be included in the work group or comments on the recommended approach, please contact Cary B. Hinton, OTLUP, (202) 755–0570.

Recommended Approach for Implementing Section 316

A. Background

Section 316 of the Clean Air Act, as amended, gives the Administrator of the environmental Protection Agency (EPA) the power to condition, restrict, or withhold grants for the construction of sewage treatment works under the following situations:

- Where the treatment works will not comply with new source performance standards (under section 111) or with national emission standards for hazardous air pollutants (under section 112). (316(b)(1))
- Where, in an area subject to requirements for nonattainment or prevention of significant deterioration (PSD), there is not an EPA approved state implementation (SIP) plan for dealing with air pollution that is reasonably anticipated to result either directly or *indirectly* from proposed new sewage treatment capacity. (316(b)(2))
- Where construction of the proposed treatment works "may reasonably be anticipated to cause or contribute to, directly or indirectly, an increase in emissions of any pollutant in excess of the increase provided for" under the SIP (for nonattainment or PSD) or "would otherwise not be in conformity with" the SIP. (316(b)(3))
- Where construction of the proposed treatment works "would interfere with, or be inconsistent with, the applicable implementation plan for any other state." (315(b)(4))

A number of options for implementing section 316 have been evaluated. The recommended approach outlined below combines elements of several of the options. The approach includes:

- Assuring that all sewage treatment works funded through grants authorized by section 201 of the Clean Water Act meet standards established under sections 111 and 112 of the Clean Air Act.
- Determining whether the proposed sewage treatment works meet certain threshold criteria indicating potential adverse effects on air quality.
- Determining whether the direct and indirect emissions from sewage treatment works are accounted for in the SIP.
- Where emissions are accounted for in the SIPs, conditioning grant award on implementation and enforcement of any SIP measure for which the grantee has responsibility.
- Conditioning, restricting, or withholding grants for facilities planning (step 1), construction planning (step 2) or project construction (step 3) until measures for dealing with emissions from sewage treatment works not accounted for in a SIP have been developed and a commitment to implement has been secured.

B. Elements of Recommended Approach

1. *Compliance with National Standards.*—Applicants for all step 3 grants for the construction of sewage treatment works to which standards established under sections 111 or 112 apply must obtain from the EPA, or a state agency when authority has been delegated, a certification that the proposed facility will meet emission standards and other requirements established under those sections. Failure to obtain the certification will result in either conditioning of the EPA grant to assure compliance prior to construction

or, if compliance cannot be demonstrated, withholding of the grant.

2. *Threshold Criteria.*—The threshold criteria for determining which 201 grant applications should receive more detailed review because the proposed sewage treatment works may have adverse effects on air quality are included in Appendix A. For both nonattainment areas and attainment areas the criteria are based on wastewater design flows and the ratio of future to present populations.

3. *Facility Accounted for in SIP; Nonattainment Areas.*—Applicants for any grants for sewage treatment works meeting the threshold criteria and located in a nonattainment area must demonstrate that an approved SIP is being carried out and that the SIP accounts for direct and indirect emissions from the proposed facility. The demonstration must include the following:

• The area must be making "reasonable further progress" towards the attainment of all national ambient air quality standards for pollutants resulting directly or indirectly from the proposed facility. If EPA determines that reasonable further progress is not being made, then all 201 grant awards will be conditioned or withheld in that area. Grants will be conditioned if an agreement can be reached with the agency or agencies responsible for the lack of reasonable further progress on a schedule to correct whatever deficiencies in progress that exist. If the lack of progress relates to a pollutant for which a proposed facility is a direct source of emissions, initiation of operation of the facility will be conditioned on meeting the schedule to correct progress deficiencies. If the progress deficiencies are for a pollutant for which the facility is an indirect source, the grant will be conditioned to allow hook-ups sufficient to serve only the existing population until the deficiencies are remedied.

• The population growth capable of being accommodated by the facility for which the grant application is being made and the cumumlative regional population growth from all anticipated sewage treatment works must be consistent with the population forecasts on which the SIP and state and areawide water quality management plans are based. Under current EPA policy, state and areawide forecasts for SIPs, water quality management plans, and 201 facility plans must coincide after the state population disaggregations have been approved and the substate totals have been further disaggregated to the facility planning area. The areawide forecasts currently are often not disaggregated. Under the proposed approach, if areawide growth rates coincide, but the rate of population growth associated with a facility is greater than the areawide growth rate, the environmental assessment or environmental impact statement for the facility will have to justify the variation and describe the distribution of population within the entire area. If the variation is not justified, the 201 grant award will be conditioned to require reconciliation of the population forecasts and changes in facility design or operation. Design changes may be required for approval of step 2 grants. In the case of step 3 grants, where population growth rates are reconciled, conditions limiting new connections to a rate consistent with adjusted population forecasts may be required. Where population growth rates are not reconciled, hook-ups will be limited to the existing population. As an alternative to changing design or operation of a facility, the SIP may be revised to accommodate a revised population forecast.

• The increase in emissions that results directly or indirectly from the proposed facility must be accounted for in the SIP's emission growth increment for the area, of if a case-by-case offset approach is included in the SIP, offsets must be obtained. Failure by the grant applicant to meet this provision will result in conditions on a step 3 grant to allow construction, but restrict future hook-ups, until the emissions have either been accommodated or offset in accordance with SIP requirements.

• The proposed facility must meet all emission standards in the SIP and be in conformance with all other provisions of the SIP. Failure to meet SIP emission standards will result in either conditioning a step 3 grant to assure compliance or, if compliance cannot be attained, withholding approval of grant award. Nonconformity with other SIP provisions will result in conditioning a step 3 grant to restrict future hook-ups, or withholding of the grant. The action taken by EPA will depend on the nature and extent of the nonconformity.

Under the proposed approach, applicants for any 201 grants in nonattainment areas would have to agree, as a condition to the grant award, that they will support the implementation of the SIP and commit the necessary resources to implement specific provisions which would offset the growth of direct and indirect emissions from the project.

4. *Facility Accounted for in a SIP; Attainment Areas.*—Applicants for step 3 grants for sewage treatment works within an attainment area must demonstrate compliance with all federal and SIP emission standards and, together with appropriate general and special units of government, implement a positive mitigation program that addresses the potential increase in indirect emissions associated with the proposed facility. Failure by the grant applicant to satisfy these provisions will result in conditioning a grant, or if compliance cannot be assured, withholding approval of the grant award.

5. *Facilities Not Accounted for in a SIP.*—There are three basic situations under which proposed sewage treatment works may not be accounted for in a SIP:

• The SIP revisions required by the 1977 amendments to the Clean Air Act have not been approved.

• The SIP revisions have been approved by EPA, but do not account for the emissions associated with the proposed sewage treatment works.

• An area has been newly identified as nonattainment and the Administrator has called for a SIP revision.

Applicants for 201 grants in areas covered by one of the three situations will be subject to the following requirements:

• Approval of any step 2 or step 3 grant application for projects including sludge incineration will be withheld under the first situation until a SIP is approved that accounts for the direct emissions associated with the project. Such a policy is consistent with the prohibition on construction of major new sources in nonattainment areas that do not have an approved SIP by July 1, 1979. Processing of the grant application may proceed prior to SIP approval, but no award will be made.

• Approval of any step 2 or step 3 grant application for projects including sludge incineration will be withheld under the second and third situations until the applicant demonstrates compliance with all Federal and State emission standards.

• Under all three situations, whether or not they involve sludge incineration, the applicant must commit to develop a program that will assure that indirect emissions associated with a project are ultimately accounted for in the SIP. Such commitment will be a condition of grant award. The program will include:

—Identification of the increased direct and indirect emissions associated with the project.

—Development of measures to mitigate the impact of increased direct and indirect emissions associated with the project.
—Coordination of the development of mitigation measures with the development of the SIP.
—Incorporation of appropriate mitigation measures within the SIP.
—Commitment to implement SIP mitigation measures over which the applicant has control.
—Commitment to monitor and report on implementation of all mitigation measures.

APPENDIX A

Section 316 Applicability

I. Geographic Area

Section 316 applies to all sewage treatment works proposed for funding under the provisions of Section 201 of the Clean Water Act, as amended, by EPA in nonattainment areas, as defined in section 171(2) and identified pursuant to section 107(d) of the Clean Air Act. It also applies to sewage treatment works proposed for areas identified as attainment or unclassified pursuant to 107(d) and subject to the requirements of Part C, Prevention of Significant Deterioration of Air Quality.

II. Size and Type of Project

The threshold criteria listed below are for screening 201 grant applications to determine the need for more detailed air quality assessments and implementation of the provisions of section 316.

A. *In Nonattainment Areas,* all 201 grant applications for projects will come under review that will exceed both the following criteria:

—provide a total flow capacity of one million gallons per day (mgd) or more.
—include interceptor sewers whose largest diameter is 18 inches or greater.
—have a ratio of future to present population served by the facility that exceeds 1.15:1 for a ten-year planning period, 1.225:1 for a fifteen-year planning period, or 1.3:1 for a twenty-year planning period.

B. *In Attainment Areas,* all 201 grant applications for projects will come under review that will exceed the following criteria:

—provide a total flow capacity of one mgd.
—have a ratio of future to present population served by the facility that exceeds 1.4:1 for a ten-year planning period, 1.6:1 for a fifteen-year planning period, or 1.8:1 for a twenty-year planning period.

C. *In All Areas,* any 201 grant application for a project determined to have potentially significant air quality impacts will be reviewed.

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BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1260-4]

Approval and Promulgation of Implementation Plans; Florida: Proposed Plan Revisions

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed rule.

SUMMARY: It is proposed to revise the Florida Implementation plan with respect to sulfur dioxide (SO_2) emission limits applicable to existing fossil fuel fired steam generators located in several Florida counties. The revised emission limits were established after the conclusion of the Florida Sulfur Oxides Study and have been adopted by the Florida Department of Environmental Regulation (FDER) because mathematical modeling indicated the need to tighten previous emission limits for certain sources in order to protect the national ambient air quality standards.

DATES: Comments must be received on or before August 1, 1979, to be considered.

ADDRESSES: Written comments on the proposed Florida plan revisions should be addressed to Mr. Brian Mitchell of the Air and Hazardous Materials Division of EPA's Region IV office in Atlanta (see complete address below). Copies of the materials submitted by Florida may be examined during normal business hours at the following locations:

Air and Hazardous Materials Division, EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia, 30308.
Public Information Reference Unit, Library Systems Branch, EPA, 401 M Street, SW., Washington, D.C. 20460.
Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: D. Brian Mitchell, Air Programs Branch, Air and Hazardous Materials Division, 345 Courtland Street, NE., Atlanta, Georgia, 30308, 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: On May 31, 1972 (37 FR 10858), the Administrator approved the Florida State Implementation Plan (SIP) to attain and maintain the national ambient air quality standards. Subsequently, a number of changes have been made in the plan to improve its effectiveness. On August 15, 1975, it was announced in the **Federal Register** (40 FR 34408) that Florida had proposed to revise its implementation plan by changing the sulfur dioxide emission limits applicable to several fossil-fuel-fired steam generators. The original Florida plan provided SO_2 limits of 1.1 lbs. $SO_2/10^6$ Btu for the burning of liquid fuels and 1.5 lbs. $SO_2/10^6$ Btu for solid fuels. It was proposed to change the limit applicable to all existing (as of January 1972) fossil-fuel steam generators in which liquid fuel is burned from 1.1 lbs. $SO_2/10^6$ Btu to 2.75 lbs. $SO_2/10^6$ Btu except (1) in Duval County, where the limit was set at 2.5 lbs. $SO_2/10^6$ Btu north of Heckersher Drive and 1.65 lbs. $SO_2/10^6$ Btu for all other sources, and (2) in Hillsborough County, where the limit remained at 1.1 lbs. $SO_2/10^6$ Btu for all sources. The limit applicable to all existing (as of January 1972) steam generators burning solid fuel was changed from 1.5 lbs. $SO_2/10^6$ Btu to 6.17 lbs. $SO_2/10^6$ Btu except for two sources in Hillsborough County, where the limit was set at 2.4 lbs. $SO_2/10^6$ Btu for Gannon Station of the Tampa Electric Co. (TECo), Units 5 and 6, and 6.5 lbs. $SO_2/10^6$ Btu for Big Bend Station, also of TECo. The limits applicable to new sources remained unchanged (same as 40 CFR 60.43 in essence).

On April 19, 1976 (41 FR 16461) the Administrator announced that the new limits as they applied to TECo's Big Bend Station were being disapproved and that the revised solid fuel limit proposed for Gannon 5 and 6 was being disapproved solely on the basis that the Company might not be allowed to convert Gannon 1–4 from coal to oil as planned. At the same time, the Agency announced it would refrain from acting on the new limits for Duval County pending completion of the air quality maintenance analysis then underway.

Further, EPA disapproved the proposed plan revision as it applied to Gulf Power Company's Crist Steam Plant and the Monsanto Company Textile Plant in Escambia County, because the proposed limits would not provide for attainment and maintenance of the national short-term SO_2 ambient air quality standards.

The remaining Statewide limits of 2.75 lbs. $SO_2/10^6$ Btu heat input for liquid fuel and 6.17 lbs. $SO_2/10^6$ Btu heat input for solid fuel were approved, as well as the emission limit of 1.1 lbs. $SO_2/10^6$ Btu heat input for liquid fuel, applicable in Hillsborough County only.

On April 7, 1977, the Florida Environmental Regulation Commission

adopted new interim and final SO_2 emission limits for TECo's Big Bend Station in Hillsborough County and for Jacksonville Electric Authority's Northside Station in Duval County. At the same time, a variance applicable to SO_2 limits from Florida Power and Light Co.'s Manatee Station in Manatee County was adopted. These changes were submitted to EPA as a proposed plan revision on April 27, 1977; revised control strategy information was submitted in support of the new limits on May 16, 1977. This revision was announced as a proposed rulemaking on April 18, 1978 (43 FR 16350), and no comments were received by the end of the comment period provided.

Also, on October 7, 1977, the FDER submitted to EPA as a proposed implementation plan revision, revised emission limits for the Crist and Monsanto plants in Escambia County. These had been adopted following notice and public hearing on August 11, 1977. These changes have never been announced by EPA. However, numerous meetings and correspondence between EPA, the FDER, and Gulf Power representatives have since led to tentative agreement on acceptable emission limits for the affected Escambia County sources.

Since these two plan revisions were submitted, the Florida Sulfur Oxides Study (FSOS), a $2 million study financed over a two-year period by the electric power industry in Florida, has been concluded. On June 20–22, 1978, the Florida Environmental Regulation Commission (FERC) held a public meeting in Orlando to hear the results of the study. As a result of the FSOS and many recommendations supported by mathematical modeling, the FERC, after notice and public hearing, on September 7, 1978, adopted proposed changes in the Florida plan and submitted them to EPA on November 6, 1978. This revision encompasses all the sources discussed above except TECo's Gannon Station and also modifies the SO_2 emission limits applicable to the City of Tallahassee's A. B. Hopkins and Purdom generating stations.

Also, following a public hearing held on December 5, 1978, the FERC adopted revised SO_2 limits for seven existing fossil fuel fired steam generators in Southeast Florida. This revision was submitted for EPA's approval on February 3, 1979. The purpose of this notice is to describe these two later revisions—which replace the earlier two described above, and to invite public comment on them.

Hillsborough County Sources

TECo's Gannon Station. This is the only source discussed here which is not affected by the present revisions in Florida's SIP.

As mentioned earlier in this notice, the Administrator disapproved the revised solid fuel emission limit of 2.4 lbs. $SO_2/10^6$ Btu for Gannon Units 5 and 6 on the basis that Gannon Units 1–4 might not be allowed to convert from coal to oil. The conversion has been effected, however, and these units are now burning oil and are subject to the approved SIP limit for Hillsborough County of 1.1 lbs. $SO_2/10^6$ Btu. Diffusion modeling performed by the Agency indicates that if Gannon 1–4 meet the liquid fuel limit of 1.1 lbs. $SO_2/10^6$ Btu, the 2.4 lbs. $SO_2/10^6$ Btu solid fuel limit applied to Gannon 5 and 6 is adequate to assure the continued maintenance of the national ambient air quality standards for sulfur dioxide in the vicinity of Gannon Station.

TECo's Big Bend Station (Coal-fired). Under the changes recently adopted by the FDER, Big Bend Units 1–3 are to emit no more than a total of 31.5 tons per hour of sulfur dioxide on a three-hour average but in no case to exceed a two-hour average emission of 6.5 lbs. $SO_2/10^6$ Btu. This revision provides for an SO_2 emission cap on a three-hour average which is more restrictive than the 35 ton per hour cap previously proposed by EPA in the April 18, 1978, **Federal Register** (43 FR 16350, 16351). Additionally, Big Bend 1–3 shall emit no more than a total of 25 tons per hour of SO_2 on a 24-hour average.

Duval County Sources

JEA's Northside Station (Oil-fired). Units 1–3 are to emit no more than 1.98 lbs. $SO_2/10^6$ Btu.

JEA's Southside and Kennedy Stations (Oil-fired). Southside Units 105 and Kennedy Units 8–10 are to emit no more than 1.1 lbs. $SO_2/10^6$ Btu.

All other fossil fuel fired steam generators in Duval County with more than 250 million Btu/hour heat input are to meet an emission limit of no more than 1.65 lbs. $SO_2/10^6$ Btu. This changes the proposed revision announced on April 18, 1978, (43 FR 16350).

Escambia County Sources

Gulf Power Company's Crist Station (Oil and coal-fired units). Oil-fired Units 1–3 are to emit no more than 1.88 lbs. $SO_2/10^6$ Btu. Coal-fired Units 4–7 are to emit no more than 5.90 lbs. $SO_2/10^6$ Btu.

Monsanto Textiles Company (Oil-fired). Boiler Units 1–8 in aggregate are to emit no more than 57.5 tons of SO_2 in any 24-hour period.

Manatee County Sources

Florida Power and Light Company's (FP&L) Manatee Station (Oil-fired). Manatee Units 1 and 2 are to emit no more than 1.1 lbs. $SO_2/10^6$ Btu.

Leon and Wakulla County Sources

City of Tallahassee's A. B. Hopkins and Purdom Stations (Oil-fired). A. B. Hopkins Units 1 and 2 (Leon County) and Purdom Units 5–7 (Wakulla County) are to emit no more than 1.87 lbs. $SO_2/10^6$ Btu.

Dade, Broward, and Palm Beach County Sources

FP&L's Cutler, Ft. Lauderdale, and Riviera Stations (Oil-fired). Under the proposed regulation, Cutler Units 4–6, Ft. Lauderdale Units 4 and 5, and Riviera Units 1 and 2 shall not emit more than 1.1 lbs. $SO_2/10^6$ Btu, except that in the event of a fuel or energy crisis declared by the Governor of Florida or the President of the United States, they may emit 2.7 lbs. $SO_2/10^6$ Btu. Notification concerning the quantity and estimated duration of the increase in emissions shall be given the Department prior to burning the higher sulfur fuel (during a declared crisis).

The emission limit of 1.1 lbs. $SO_2/10^6$ Btu as it applies to these seven units of FP&L is more restrictive than the current Statewide limit of 2.75 lbs. $SO_2/10^6$ Btu which is in effect for that area. Under Section 110(f) of the Clean Air Act, only the President may determine that an energy emergency exists. Therefore, in order to approve the above change in the SIP, the regulation should read . . . "by the Governor of Florida *and* the President of the United States", and should include the remaining provisions under Section 110(f) of the Clean Air Act. In addition, this SIP revision for the Southeastern Florida FP&L Stations does not address applicability of New Source Performance Standards (NSPS) or compliance with NSPS. This defect must be remedied before EPA approval will be given.

Florida's proposed SIP revision of November 6, 1978, includes a change in the definition of "existing source", found at 17–2.02(15), FAC. This change, according to the FDER, would allow the classification of JEA's Northside Unit 3, TECo's Big Bend 3, and FP&L's Manatee Station, to be consistent with EPA's determinations that these are existing facilities with respect to NSPS. There is some question whether this change in the definition can be approved because of a reference to applying Best

Available Control Technology (BACT) per 17–2.03, FAC, which has not been approved by EPA. However, this does not affect the approvability of these proposed SO_2 emission limits.

Also, since Florida's test methods have never been approved by EPA, (17–2.08, FAC), compliance with these SO_2 regulations should be determined in accordance with 40 CFR Part 60, and daily SO_2 emissions monitored by use of continuous emission monitors or by EPA approved specific fuel monitoring procedures. Efforts are currently underway in Florida to revise the source sampling manual and further revisions in this area will be discussed in a future notice. For compliance testing, the SO_2 limits proposed should all have another significant digit added (e.g., 1.980, 1.10, 2.70, 1.650, etc.) in order to avoid confusion.

Air quality modeling performed by EPA, FDER, and engineering consultants contracted for special studies in Florida, support these proposed SO_2 emission limits as approvable regulatory changes to the Florida State Implementation Plan to attain and maintain the national ambient air quality standards. No violations of any sulfur dioxide national standards or PSD increments are expected to occur as demonstrated by this modeling. Further documentation concerning increment utilization under Prevention of Significant Deterioration regulations is expected from the FDER before final action is taken on these revisions.

Florida has also adopted a change in the format of Chapter 17–2 of the Florida Administrative Code. This new format was adopted after formal hearings by the Florida Environmental Regulation Commission and became effective in the State on June 8, 1978. Since this revision does not change substantive requirements of these regulations, EPA is proposing to approve this new format. The following index to Chapter 17–2, FAC, shows the pre-June 8, 1978, identifying numbers and titles and the titles and numbers which are now in effect.

Index

	Pre-June 8, 1978	Current
17–2.01	Declaration and intent	Declaration and intent.
17–2.02	Definitions	Definitions.
17–2.03	General restrictions	Best available control technology.
17–2.04	Prohibitive acts	Prevention of significant Deterioration (PSD).
17–2.05	Ambient air quality standards	Prohibitive acts.
17–2.06	Air pollution episode	Ambient air quality standards.
17–2.07	Sampling and testing	Air pollution episode.
17–2.08	Local regulations	Sampling and testing.
17–2.09	Public comment	Local regulations.
17–2.091	(N.A.)	Public comment.
17–2.10	Local government	(Repealed).
17–2.11	Low sulfur fuel shortage	(Repealed).
17–2.12	Source test method	(Repealed).

Interested persons are encouraged to submit written comments on the proposed revisions in the Florida SIP. After carefully weighing relevant comments received and all other information available to him, the Administrator will take approval/disapproval action on these changes in the Florida plan.

(Section 110(a) of the Clean Air Act (42 U.S.C. 7410(a)).)

Dated: June 18, 1979.

John C. White,

Regional Administrator.

[FR Doc. 79–20309 Filed 6–29–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 52]

[FRL 1260–01]

Approval and Promulgation of Implementation Plans; South Carolina: Proposed Plan Revisions

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed rulemaking.

SUMMARY: On May 8, 1979, the South Carolina Board of Health and Environmental Control adopted, after public notice and public hearing, revised permit conditions for M. Lowenstein and Sons, Inc., Lyman Printing and Finishing Division. The purpose of this notice is to announce these revisions as proposed rulemaking and to solicit public comment on them.

DATES: Comments must be received on or before August 1, 1979, to be considered.

ADDRESSES: Written comments on the proposed revision should be addressed to Melvin Russell of EPA's Air Programs Branch in Atlanta (see address below). Copies of the materials submitted by South Carolina may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, EPA (PM–213), 401 M Street, SW., Washington, D.C. 20406.

EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308.

South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Melvin Russell, Air Programs Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30308, 404/881–2864.

SUPPLEMENTARY INFORMATION: Following notice and public hearing in conformity with the requirements of 40 CFR 51.4, the South Carolina Board of Health and Environmental Control, on May 8, 1979, adopted revisions to its State Implementation Plan (SIP) as it relates to permit requirements for M. Lowenstein and Sons, Inc., Lyman Printing and Finishing Division, Spartanburg, S.C.

The purpose of this revision to the South Carolina SIP, pursuant to Section 129(a)(1) of the 1977 Clean Air Act Amendments (P.L. 95–95 and the EPA January 17, 1979 Interpretive Ruling (IR) (44 FR 3274), is to offset nonmethane hydrocarbon emissions resulting from the operation of equipment at R. R. Donnelley and Sons Company, Spartanburg, S.C. The revisions will have the following effect on operations at M. Lowenstein and Sons, Inc., Lyman Printing and Finishing Division. The revisions cancel operating permit number O/P–42–167 and reissues operating permit numbers O/P–42–170 through O/P–42–179.

The public is invited to participate in this rulemaking by submitting written comments on the proposed revisions (see under "Addresses" above). After reviewing all relevant comments received together with all other information available to him, the Administrator will take action on these proposed changes in the South Carolina State Implementation Plan.

(Section 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: June 25, 1979.

Paul J. Traina,

Acting Regional Administrator.

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

Subpart PP—South Carolina

Section 52.2120(c) is amended by adding subparagraph (10).

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

(10) * * *

1. Operating permit number O/P–42–167 for the operation of five (5) Kingsley Roller Print Dryers (Nos. 3, 4, 5, 6, and 7)

is cancelled with these dryers not to be operated after June 1, 1979.

2. Operating permit number O/P-52-170 through O/P-42-179 for screen print machine Nos. 3, 4, 5, 6, 7, 8, 10, 11 and 12 are re-issued to reflect the total and permanent transition from solvent-based print pastes to water-based print pastes on these machines as of June 1, 1979.

[FR Doc. 79-20316 Filed 6-29-79; 8:45 am]
[BILLING CODE 6560-01-M

[40 CFR Part 52]

[FRL 1259-6]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this notice is to announce the receipt of a Minnesota State Implementation Plan (SIP) revision for the St. Cloud Metropolitan Area, to discuss the results of the United States Environmental Protection Agency's (USEPA) review of the revision, and to invite public comment.

On May 17, 1979, the State of Minnesota submitted to USEPA a proposed revision of its SIP pursuant to Part D of the Clean Air Act as amended in 1977. The revision is a transportation plan (plan) for the St. Cloud urbanized area consisting of Stearns, Sherburne, and Benton Counties. The purpose of this revision is to implement measures designed to attain and maintain the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO), as expeditiously as practicable but no later than December 31, 1982. The requirements for an approvable SIP are described in a **Federal Register**. Notice published on April 4, 1979 (44 FR 20372), and are not reiterated in this notice.

DATE: Comments on this revision and on the proposed USEPA action on the provisions are due by August 31, 1979.

ADDRESSES: Copies of the SIP revision are available at the following addresses for inspection:

United States Environmental Protection Agency, Region V Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113.

Written comments should be sent to: Ms. Maxine Borcherding, SIP Coordinator, USEPA Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine Borcherding, SIP Coordinator, USEPA Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604 312-353-2205.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), pursuant to the requirements of section 107 of the Clean Air Act (Act), as amended in 1977, USEPA designated the City of St. Cloud as a nonattainment area with respect to meeting the National Ambient Air Quality Standards for carbon monoxide (CO) and Sherburne County as a nonattainment area with respect to meeting the NAAQS for photochemical oxidants (ozone).

Part D of the Act added by the 1977 Amendments requires that each state revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary NAAQS as expeditiously as practicable, but no later than December 31, 1982. Under certain conditions, the date may be extended to December 31, 1987 for ozone and carbon monoxide.

In response to these requirements, the designee of the Governor of Minnesota submitted on May 17, 1979, a revision to the Minnesota SIP containing the transportation plan for the St. Cloud Metropolitan Area. This local transportation plan was developed by the St. Cloud Area Planning Organization (SCPAO) which has been designated pursuant to section 174 of the Act as the lead local agency for coordinating, developing, and implementing the control measures in the plan. SCAPO adopted the plan on April 19, 1979. On May 1, 1979, the Minnesota Pollution Control Board adopted the plan.

The transportation plan contains measures designed to attain and maintain the NAAQS for carbon monoxide. The plan demonstrates attainment of the carbon monoxide standard by December 31, 1982. Therefore, no extension of the statutory deadline is requested. The St. Cloud transportation plan does not address the ozone problem in Sherburne County because this area has a population of less than 200,000 and is considered rural for the purpose of ozone standard attainment. Transportation controls are not required in rural nonattainment counties since controls on major stationary sources and the development of transportation plans in urban areas should assure reasonable further progress and attainment in rurals by minimizing the transport of the pollutant from urban to rural areas.

This notice discusses USEPA's review of the proposed revision to the Minnesota SIP. USEPA proposes to approve the St. Cloud Metropolitan Area transportation plan as meeting the requirements of the Clean Air Act for transportation portions of a SIP. There is, however, a technical procedural problem with the SIP submittal. Sections 110(a)(1) and 172(b)(1) of the Act require that State Implementation Plans and revisions be adopted "after reasonable notice and public hearing." 40 CFR 51.4 specifies that notice must be given to the public at least thirty days prior to a public hearing on the adoption of any plan or revision. By publishing the notice on March 29, 1979 for a public hearing scheduled on April 24, 1979 the State inadvertantly provided only 27 days notice of the public hearing on this revision rather than the required 30 day notice. In an effort to compensate for this deficiency, the State delayed discussion of the SIP revision until a meeting held May 1, 1979. In addition, the public had opportunity to comment on the proposed revision at a public hearing held by the City of St. Cloud on January 22, 1979. Only a ten day notice proceeded this hearing in accordance with local requirements. USEPA believes that reasonable notice was given and that this deviation from the regulations is not sufficient to disapprove the SIP revision under Part D of the Act. USEFA specifically requests public comment on this procedural deficiency and the proposed USEPA action.

Interested persons are invited to comment on this revision to the Minnesota SIP and on USEPA's proposed action. Comments should be submitted to the address listed in the front of this notice. Public comments received within sixty days of publication of this notice will be considered in USEPA's final rulemaking on the revision. All comments received will be available for inspection at Region V Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Transportation Control Plan Discussion

The St. Cloud Metropolitan Area plan identifies transportation strategies that will reduce emissions of carbon monixide and demonstrate attainment of the carbon monoxide standard by December 31, 1982. In addition, the plan outlines a program of continued study that will identify additional control

programs to ensure attainment and maintenance of the standards.

USEPA has evaluated the transportation plan using the requirements for an approvable nonattainment area SIP which appeared in the April 4, 1979 **Federal Register** (44 FR 20372), the "USEPA–USDOT Guideline for Air Quality-Transportation Plans" and the Office of Transportation and Land Use Policy "Checklist for Transportation SIP's." In order to assist the public in preparing comments on the proposed SIP revision a summary of the principal requirements and the strategies adopted in the plan are discussed below.

1. *Technical Assessments, Demonstrations of Attainment, and Reasonable Further Progress.* Pursuant to section 172(b)(3) of the Act, the SIP must include a program for selecting transportation measures to attain the emission reduction targets of the SIP. This program must include schedules for the expeditious implementation of adopted transportation measures and schedules for the analysis and adoption of additional transportation measures. The St. Cloud submission includes an adopted transporation-air quality planning process and contains firm commitments to the implementation of specific measures. These measures are designed to reduce carbon monoxide emissions from the transportation sources to meet the NAAQS by December 31, 1982. Additionally, if the emission reduction for any year is not achieved, SCAPO will re-evaluate the SIP and consider adopting alternative or additional transportation measures or schedules to attain and maintain the standards.

2. *Interagency Agreements and Assignments of Tasks.* Pursuant to section 174 of the Act, the State and elected officials of affected local governments must determine respective responsibilities of the state air pollution control agency, other state agencies, the lead local agencies, and local units of government. This determination must identify the responsibilities for strategy evaluation, adoption, implementation, and enforcement. These interagency agreements have been secured by SCAPO. The specific responsibilites of each agency are identified in the proposed revision with a description of agency roles contained in support material.

3. *Analysis of Alternatives.* Pursuant to section 172(b)(2) of the Act, all reasonably available transportation measures must be evaluated and considered for implementation. At a minimum, the strategies listed in section 108(f) of the Act must be considered for each nonattainment area needing transportation related emission reductions. The St. Cloud transportation portion of the Minnesota SIP details such future analyses and identifies sources to perform these analyses on an acceptable schedule.

4. *Implementor Commitments.* Pursuant to section 172(b)(10) of the Act, the SIP must include written evidence that the state and other governmental bodies have adopted the necessary requirements in legally enforceable form. Further, the SIP is to contain commitments to the implementation and enforcement of the SIP strategies. The St. Cloud transportation portion of the Minnesota SIP contains policy resolutions from the Metopolitan Transit Commission, and the St. Cloud City Council making a commitment to implementation of the plan strategies. SCAPO has passed a resolution to administer the revised transportation planning process.

5. *Financial and Manpower Resources.* Pursuant to section 172(b)(7) of the Act, the SIP must identify the fiscal and manpower resources necessary to carryout the plan provisions. The St. Cloud transportation plan identifies sources of funding for the necessary control strategies to attain the CO standard and has documented that its Fiscal Year 1979 and 1980 unified work programs have appropriate Federal and local fund commitments for continuous planning and future studies. A USEPA grant to SCAPO under section 175 has been approved.

6. *Reporting of Progress.* Pursuant to section 172(b)(5) and to various guidelines, the SIP must contain procedures and schedules for periodic monitoring of progress in the implementation of strategies and in the achievement of annual emission reductions. Section 176(c) requires a lead local agency determination of conformity of its plans and programs with the revised SIP. The St. Cloud transportation portion of the Minnesota SIP contains provisions for inclusion of an air quality element in the SCAPO annual planning report. Further, SCAPO has described the local procedures for performing an annual evaluation of the consistency and conformity of the transportation plan with the SIP.

7. *Impacts of Plan Provisions.* Pursuant to section 172(b)(9)(A) of the Act, the SIP must identify and analyze the air quality, health, welfare, economic, energy and social effects of the plan provisions and the alternatives considered. The St. Cloud transportation plan contains qualified impact assessments and public comments on the impacts of proposed strategies.

8. *Public Participation.* Pursuant to section 172(b)(9) of the Act, the SIP must contain evidence of public, local government, and State legislative involvement and consultation regarding the planning process and proposed strategies. Additional guidance material requires the documentation of a continuous public education program in each nonattainment area. The St. Cloud transportation portion of the Minnesota SIP presents the details for a continuous and periodic education and consultation program.

9. *Strategies Demonstrating Attainment.* The strategies which demonstrate attainment of the carbon monoxide ambient air quality standard at the modelled "hot spots" and monitoring locations are as follows:

	Description	Schedule
1	10th Avenue Intersection improvements.	1980.
2	Improved signalization at Wilson Avenue and East St. Germain.	1979 or 1980
3	Transit, car-pool and van-pool strategies.	1979 through 1982.
4	Conduct feasibility study regarding use of plug-ins to reduce cold starts.	1979 through 1980.
5	Review and redevelop downtown traffic plan.	1979 through 1980.
6	Implementation of transportation system management strategies and physical improvements, as needed to achieve compliance with 1982 air quality standards, and complying to the conclusions of the feasibility studies and developed by items 4 and 5.	1980 through 1982.

USEPA proposes to approve this revision to the Minnesota SIP as meeting the requirements of the Clean Air Act. Interested persons are invited to submit comments on this proposed revision to the Minnesota State Implementation Plan at the address in the front of this notice.

(Section 110 of the Clean Air Act, as amended.)

Dated: June 7, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-20260 Filed 6-29-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 52

[FRL 1262-5]

State Implementation Plans; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas—Supplement (on Public Comment and Conditional Approval)

AGENCY: Environmental Protection Agency.

ACTION: General preamble for proposed rulemaking—Supplement.

SUMMARY: Provisions of the Clean Air Act enacted in 1977 require states to revise their State Implementation Plans for all areas that have not attained National Ambient Air Quality Standards. States are to have submitted the necessary plan revisions to EPA by January 1, 1979. The Agency is now publishing proposals inviting public comment on whether each of the submittals should be approved. In the April 4, 1979 issue of the Federal Register, EPA published a General Preamble identifying and summarizing the major considerations that will guide EPA's evaluation of the submittals (44 FR 20372). Today's Supplement provides further elaboration on two issues—public comment and conditional approval.

FOR FURTHER INFORMATION CONTACT: The appropriate EPA regional office listed on the first page of the General Preamble (44 FR 20372) or the following headquarters office: G. T. Helms, Chief, Control Programs Operations Branch, Control Programs Development Division, EPA Office of Air Quality Planning and Standards (MD–15), Research Triangle Park, North Carolina 27711, (919) 541–5365 or 541–5226.

SUPPLEMENTARY INFORMATION: The background is set out at length in the April 4 General Preamble. This Supplement addresses issues that appear to need further elaboration.

1. *Public Comment*

As explained in the April 4 General Preamble, EPA Regional Administrators are publishing Federal Register proposals inviting comment on whether the individual plan submittals should be approved. The General Preamble and this Supplement are notices of proposed rulemaking, applicable to each decision by EPA whether to approve a state plan submittal. EPA's final action will be in the form of approving or disapproving the individual plan submittal.

A plan may be approved only if it satisfies the requirements of the Clean Air Act and EPA regulations. To assist the public in commenting on whether EPA should approve or disapprove individual plan submittals, EPA published in the General Preamble and this Supplement a summary of the most important requirements of the Act, EPA regulations, and EPA's interpretations and policies. Since the General Preamble is a notice of proposed rulemaking, the interpretations and policies referred to in it do not now establish conclusively how every issue must be resolved. In reviewing each individual plan submittal, EPA will consider the justification submitted by the state with its plan, the public comments on whether the plan should be approved, and other relevant material in the rulemaking record—as well as the interpretations and policies referred to in the General Preamble.

2. *Conditional Approvals*

For purposes of determining whether a SIP satisfies the requirements of Part D, EPA intends to grant conditional approvals under certain circumstances. The Act and existing SIPs provide for a restriction on construction of major new sources of pollution if a revised plan is not in effect by July 1, 1979, to satisfy the requirements of Part D. The purpose of the restriction on new sources is not to punish a state for failure to control pollution, but rather to prevent the pollution problem from getting worse. The restriction would postpone construction that would worsen a violation of a national standard until after an acceptable plan is in effect that assures timely attainment of the standard. Where a plan has been revised so as to be in substantial compliance with the requirements of Part D, and the state provides assurances that any remaining minor deficiencies will be remedied within a short period, imposition of the restriction on new sources during that period would not serve the congressional purpose. Therefore, under such circumstances EPA interprets the Act to permit the plan to be conditionally approved as satisfying Part D requirements.

If a state submits a SIP containing minor deficiencies, and the state provides assurances that it will submit corrections on a specified schedule, EPA will conditionally approve the plan. The EPA Regional Office will negotiate with the state on an acceptable schedule prior to final action. A conditional approval will mean that the restriction on new sources will not apply unless the state fails to submit corrections by the specified date, or unless the corrections are ultimately detrermined to be inadequate. Conditional approval will not be granted without strong assurance by the appropriate state officials that the deficiencies will be corrected on schedule.

In developing comments on whether individual plans satisfy the requirements of Part D, members of the public should keep in mind the three possible outcomes: full approval, disapproval, and conditional approval. If this discussion of conditional approval requires alteration of any comments on a plan for which the comment period has already ended, the commenter should contact the appropriate EPA Regional Office immediately so that the issue can be appropriately dealt with.

Note.—Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110(a), 172, Clean Air Act, as amended [42 U.S.C. 7410(a), 7502]).

Dated: June 27, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 79–20430 Filed 6–29–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 52]

[FRL 1262-4]

Approval and Promulgation of Implementation Plans; Statutory Restriction on New Sources Under Certain Circumstances for Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: In the 1977 amendments to the Clean Air Act, Congress established a statutory restriction on construction of certain major sources of air pollution after June 30, 1979, if state implementation plans are inadequate or are not adequately carried out for nonattainment areas. In the Rules and Regulations section of this issue of the Federal Register, EPA is publishing a final interpretive rule codifying the statutory restriction in the Code of Federal Regulations and the state implementation plans. This proposal solicits comment on additional language

to clarify how the statutory restriction will apply

EPA is now in the process of reviewing and approving revised plans. Although few plans have been approved, EPA expects no widespread impact from the restriction on new sources. This is because permit applications filed on or before June 30, 1979, are not subject to the restriction. For applications filed after that date, which are subject to the restriction, the administrative process will take several months after June 30 before a permit can be approved and issued regardless of the restriction. Most plans can be approved and the restriction ended before sources subject to the restriction are ready to begin construction. For plans that contain minor deficiencies, EPA proposes to approve them and cause the restriction to end, on the condition the states submit corrections on specified schedules. Therefore, EPA does not expect major disruptions of industrial activities where states are making reasonable and expeditious efforts toward submitting an approval state implementation plan revision.

DATE: Comments must be received on or before August 1, 1979.

ADDRESS: Comments should be directed to: Darryl Tyler, Office of Air Quality Planning and Standards (MD–15), Research Triangle Park, N.C. 27711.

FOR FURTHER INFORMATION CONTACT: Darryl Tyler, Chief, Standards Implementation Branch (MD–15), Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, 919–541–5425.

SUPPLEMENTARY INFORMATION: The background of the rulemaking is described in the preamble to the interpretive rule published in the Rules and Regulations section of this issue of the **Federal Register**. In summary, Congress has provided that before July 1, 1979, EPA's Emission Offset Interpretive Ruling would govern new source construction affecting nonattainment areas. From that date forward, proposed major sources are to be reviewed under the provision of a revised SIP that meets the requirements of Part D, Title I, of the Act. If a state does not have a revised plan in effect by July 1 that satisfies the requirements of Part D, Congress established that the Offset Ruling would cease to apply and there would be a statutory restriction on major new construction until the plan is revised. Congress also established that, if the revised plan is not carried out in accordance with Part D, permits are not to be issued.

The interpretive rule published today codifies the statutory new source restriction in the Code of Federal Regulations and the state implementation plans. This notice proposes to add language clarifying how the statutory restriction will apply.

1. *Location of Sources.* The statutory restriction on new sources is stated in sections 110(a)(2)(I) and 173(4) of the Act, and section 129(a) of the 1977 amendments to the Act. The language of sections 110(a)(2)(I) and 173(4) refers to sources "in" the nonattainment areas. EPA believes that this language is designed to limit the new source restriction to the particular nonattainment area for which a plan is inadequate or is not being carried out, but is not designed to limit the restriction to sources physically within the boundaries of the nonattainment area. EPA's interpretation is necessary to effectuate other statutory requirements and to be fair.

Designation of an area as attainment or unclassifiable is not designed to alleviate constraints on proposed sources in the area that would cause or contribute to a nonattainment problem. Congress stated that no sources affecting clean areas may be constructed unless the owner or operator demonstrates that the source "will not cause, or contribute to, air pollution in excess of any * * * national ambient air quality standard in *any* air quality control region * * *." [1] EPA views this prohibition as being overridden to the extent that the Offset Ruling [2] or a revised Part D plan revision provides a specific basis for approving a source that would cause or contribute to a violation. However, there may be a time after June 30, 1979, when the Offset Ruling has terminated for a nonattainment area but there is not yet an approved or promulgated Part D SIP revision for the area. If this happens, the general prohibition quoted above must result in application of the statutory restriction to sources not only in the nonattainment area, but also in neighboring attainment or unclassifiable areas for sources that would cause or contribute to a violation in the nonattainment area. Likewise, the statutory restriction must apply to sources in neighboring areas if the Part D SIP for the nonattainment area is not carried out. Limiting the restriction to sources within the nonattainment area would also undermine the purpose of the restriction—which is to prevent the pollution problem from getting worse—by postponing construction that would worsen the violation until after an acceptable plan is in effect that assures timely attainment of the standard.

This approach is also needed to be fair. It would be inequitable for the statutory restriction to apply to one proposed source but not another, merely because they are on opposite sides of the boundary. It would likewise be unfair for the statutory restriction to apply more broadly in states that—as part of an aggressive pollution control effort—included broader areas within the boundaries of each designated nonattainment area.

For proposed sources locating outside of the designated nonattainment area, or inside the area at a site where the national ambient air quality standard (NAAQS) will not be violated by the proposed start-up date of the source, EPA believes the statutory restriction should not apply unless the source's contribution to the violation in the nonattainment area is "significant" as that term is used in the Offset Ruling. The concept of "significance" was developed in the Offset Ruling to exempt sources that are distant enough from a place where a standard is violated that their contribution to the problem is minimal. It is appropriate to apply the same concept to exempt distant sources from the restriction after the Offset Ruling terminates.

Proposed paragraph (e) of 40 CFR 52.24 would contain EPA's interpretations of the statutory restriction involving treatment of sources outside of the nonattainment area and the significance of a source's impact on the violation.

The question has arisen how the new source restriction should apply if a single nonattainment area covers several political subdivision of the state, and if one subdivision adopts and carries out necessary programs, while another subdivision refuses. Although no specific regulatory language is proposed, EPA invites comment on whether (and under what circumstances) a proposed source in the

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[1] Section 165(a)(3)(B) of the Act (42 USC 7475(a)(3)(B) (emphasis added).

[2] 40 CFR Part 51, Appendix 5, as revised 44 FR 3274 (January 16, 1979). If this happens, the general prohibition quoted above must result in application of the statutory restriction to sources not only in the nonattainment area, but also in neighboring attainment or unclassifiable areas for sources that would cause or contribute to a violation in the nonattainment area. Likewise, the statutory restriction must apply to sources in neighboring areas if the Part D SIP for the nonattainment area is not carried out. Limiting the restriction to sources within the nonattainment area would also undermine the purpose of the restriction—which is to prevent the pollution problem from getting worse—by postponing construction that would worsen the violation until after an acceptable plan is in effect that assures timely attainment of the strandard.

subdivision with adequate control programs may be exempt from the restriction.

Comment Period and Effective Date

EPA has established a comment period of only 30 days because this proposal involves only a limited number of issues, serveral of which have already been raised in earlier rulemakings. Furthermore, the statutory restriction on new sources is already effective as a matter of law, and delay in adopting clarifiying language will foster confusion.

EPA proposes that the provisions proposed here should apply to all permits applied for after June 30, 1979. This would effectuate congressional intent, and would avoid inequitable treatment between applicants who file immediately and those who file after EPA takes final action.

Authority

This proposed rule is issued under Section 129(a) of the Clean Air Act Amendments of 1977, Pub. L. 95–95, 91 State. 745, August 7, 1977 (note under 42 U.S.C. 7502) and Sections 110, 172, and 301 of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601).

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reiewed with regulation and determined that it is a specialized regulation not subject to the procedural requirement of Executive Order 12044.

Dated: June 27, 1979.

Barbara Blum,

Acting Administrator.

It is proposed that 40 CFR 52.24 be amended by adding the following paragraphs:

§ 52.24 Statutory restriction on new sources.

* * * * *

(e) The restrictions in paragraphs (a) and (b) apply to each new or modified major stationary source to be constructed either inside or outside of the nonattainment area, if emissions from such new source or modification would cause or contribute to a violation of the national ambient air quality standard in the area. Whether a new source or modification would be subject to the restrictions will be determined according to the principles set forth in sections III. D and E of the Offset Ruling (involving sources locating in a "clean" portion of the nonattainment area or in a neighboring area). A source is not subject to the restrictions if it is in a different state from the nonattainment area for which the SIP does not meet the requirements of Part D or is not being carried out in accordance with the requirements of Part D.

[FR Doc. 79–20429 Filed 6–29–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 81]

[FRL 1260–8]

Commonwealth of Pennsylvania; Section 107 Attainment Status Designations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The Commonwealth of Pennsylvania has revised its list of air quality attainment designations for twelve areas within the State with respect to particulate matter (TSP) and three areas with respect to sulfur dioxide (SO_2). For TSP, the State has changed eight areas from nonattainment of primary standards to nonattainment of secondary standards, one area from nonattainment of secondary standards to attainment, and three areas from attainment to unclassifiable. For SO_2, the State has changed one area from nonattainment of primary standards to unclassifiable (discussed in a separate notice of proposed rulemaking), one area from unclassifiable to nonattainment of primary standards, and one area from unclassifiable to attainment.

On December 29, 1978, Pennsylvania submitted these revisions to the Administrator of the Environmental Protection Agency, along with supporting information, for promulgation under Section 107(d) of the Clean Air Act (the Act), 42 U.S.C. 7407(d).

With the exception of the TSP redesignation for the Lancaster Air Basin, EPA proposes to promulgate this list submitted by Pennsylvania. The purpose of this notice is to solicit public comment on this proposed action.

DATE: Comments on these proposed designation changes should be submitted on or before August 31, 1979.

ADDRESSES: Copies of the associated support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106.

Pennsylvania Department of Environmental Resources, Bureau of Air Quality and Noise Control, Fulton Building, 18th Floor, 200 North Third Street, Harrisburg, PA 17120.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

All comments should be addressed to:

Mr. Howard R. Heim, Jr., Chief (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, Philadelphia, PA 19106, Attn: 107PA–1.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold A. Frankford (3AH12), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106; (Phone) 215/597–8392.

SUPPLEMENTARY INFORMATION:

Background

Section 107(d)(1) of the Clean Air Act requires the States to submit to the Administrator a list identifying all air quality control areas, or portions thereof, that have not attained the National Ambient Air Quality Standards. The Act further requires that the Administrator promulgate this list, with such modifications as he deems necessary, as required by Section 107(d)(2) of the Act. On March 3, 1978, the Administrator promulgated nonattainment designations for Pennsylvania for total suspended particulates (TSP), sulfur dioxide (SO_2), carbon monoxide (CO), ozone (O_3) and oxides of nitrogen (NO_x) (43 FR 8962). These designations were effective immediately and public comment was solicited. On September 12, 1978, in response to the comments received, the Administrator revised and amended certain of the original designations (43 FR 40502). The Act also provides that a State, from time to time, may review and revise its designations list and submit these revisions to the Administrator for promulgation (Section 107(d)(5) of the Act). The criteria and policy guidelines governing these revisions and the Administrator's review of them are the same that were used in the original designations and which are summarized in the **Federal Register** on March 3, 1978 (43 FR 8962), September 11, 1978 (43 FR 40412) and September 12, 1978 (43 FR 40502). Pennsylvania has revised its original designation list and on December 29, 1978, submitted these revisions to EPA.

TSP

The changes listed by Pennsylvania for TSP are as follows:

A. Change from "Does Not Meet Primary Standards" to "Does Not Meet Secondary Standards"

1. Northeast Pennsylvania Interstate AQCR
(a) Reading Air Basin
(b) Scranton/Wilkes-Barre Air Basin
2. Metropolitan Philadelphia Interstate AQCR
(a) Pottstown Borough (Montgomery County)
(b) South Coatesville Borough (Chester County)
3. South Central Pennsylvania Intrastate AQCR
(a) Harrisburg Air Basin
(b) Lancaster Air Basin
4. Central Pennsylvania Intrastate AQCR
(a) City of Altoona (Blair County)
(b) City of Williamsport (Lycoming County)

B. Change from "Does Not Meet Secondary Standards" to "Better than National Standards"

1. Metropolitan Philadelphia Interstate AQCR (Southeast Pennsylvania Air Basin)
(a) Lansdale Borough (Montgomery County)

C. Change from "Better Than National Standards" to "Cannot be Classified"

1. Metropolitan Philadelphia Interstate AQCR
(a) Downingtown Borough (Chester County)
(b) Doylestown Township (Bucks County)
(c) Upper Moreland Township (Montgomery County)

Harrisburg and Reading Air Basins; South Coatesville Portions of the Southeast Pennsylvania Air Basin; City of Altoona

Pennsylvania has revised these five areas from nonattainment of primary TSP standards to nonattainment of secondary TSP standards on the basis that the monitoring sites in all four areas are unrepresentative. This possibility was specifically noted with respect to the Harrisburg Air Basin in the Administrator's September 12, 1978 designations amendments (43 F.R. 40504). At that time, however, additional studies were needed to determine if these monitors were actually unrepresentative. These additional studies have now been completed and they demonstrate that in each area, a major monitor is unrepresentative because it is located at ground level and is heavily impacted by reentrained road dust. For instance, the South Coatesville monitor is located at ground level and is in close proximity to an area where bricks, gravel, and sand are stored. Fugitive dust from these stored materials is likely to unduly influence this monitor site. The State indicated, however, that modeling studies still show violations of the secondary TSP standards in these areas. Therefore, EPA proposes to redesignate these areas nonattainment of secondary TSP standards in accordance with Pennsylvania's revisions.

Scranton/Wilkes-Barre Air Basin: Pennsylvania has revised this area from nonattainment of primary TSP standards to nonattainment of secondary TSP standards because available monitoring data showed no primary violations for the eight consecutive quarters from Arpil, 1977 to March, 1979. Modeling and monitoring data do show secondary TSP violations.

According to the State, current air quality data show that the Scranton/Wilkes-Barre Air Basin has met the primary TSP for eight consecutive quarters. Based on the State's evaluation, EPA proposes to redesignate this air basin as nonattainment of the secondary TSP standards.

City of Williamsport and Pottstown Borough: The State has revised these areas from nonattainment of primary TSP standards to nonattainment of secondary TSP standards because monitors in each area have indicated attainment of this primary standards, but not the secondary standards, for TSP during both 1977 and 1978. Further, a modeling study performed by the State for the City of Williamsport shows only violations of the secondary TSP standards. Because no violations of the primary TSP standards have occurred for eight consecutive quarters or are predicted by modeling studies, those areas can be redesignated attainment for primary TSP standards. On the basis of these criteria, EPA proposes to redesignate these areas nonattainment of secondary TSP standards in accordance with the State's revisions.

Lansdale portion of S. E. Pennsylvania Air Basin: Pennsylvania has revised this area from nonattainment of primary TSP standards to attainment because monitoring data for both 1977 and 1978 demonstrate attainment of both the primary and secondary TSP standards. EPA proposes to redesignate this area as "better than national standards" in accordance with the State's revision.

Willow Grove, Downingtown, and Doylestown Portions of the S. E. Pennsylvania Air Basin: Pennsylvania has revised these areas from attainment to unclassifiable, because recent data has indicated violations of the secondary 24-hour TSP standard. The State is conducting a study of the air quality in these areas to determine if these recent increases represent a new trend or represent an abnormal occurrences. Pending the outcome of this study, EPA proposes to redesignate these areas as "cannot be classified" in accordance with the State's revisions.

Lancaster Air Basin: Pennsylvania has revised this area from nonattainment of primary standards to nonattainment of secondary standards. Air quality data submitted by the State showed no violations of the primary TSP standards in 1978 and marginal violations of the primary TSP standards in 1977. However, the most recently available air quality data indicate violations of the annual geometric mean. Therefore, the Administrator has determined that it is not appropriate to consider revising the current designation of nonattainment of primary standards for this Air Basin. Accordingly, the State is required to submit a state implementation plan revision satisfying the requirements of Part D of the Clean Air Act Amendments.

SO_2

The changes listed by Pennsylvania for SO_2 are summarized as follows:

1. The Beaver Valley Air Basin, from "cannot be classified" to "does not meet primary standard.".
2. The Delaware County portion of the Metropolitan Philadelphia Interstate AQCR from "cannot be classified" to "better than national standards."

Beaver Valley Air Basin: Pennsylvania has revised this air basin from unclassifiable to nonattainment of primary SO_2 standards because monitoring data from both 1977 and 1978 showed violations of the annual primary SO_2 standard. EPA proposes to redesignate this air basin as "does not meet primary standards" in accordance with Pennsylvania's revision.

Delaware County Portion of the Metropolitan Philadelphia Interstate AQCR: Pennsylvania has revised this area from unclassifiable to attainment because the monitoring data in the area demonstrate two consecutive years (1977 and 1978) of attainment of both the primary and secondary SO_2 standards. Modeling studies done in this area also indicate attainment. EPA proposes to redesignate this area as "better than national standards" in accordance with Pennsylvania's revisions.

All other Section 107 designations for the Commonwealth of Pennsylvania not discussed in this notice remain intact (see 43 FR 40513 et seq.).

With respect to the areas the State has changed to attainment and EPA

proposes to redesignate attainment, until EPA actually promulgates a final redesignation changing the areas to attainment, the July 1, 1979 deadline for approval of state implementation plan revisions satisfying Part D of the 1977 Clean Air Act Amendment will continue to apply. Also, with respect to those areas the State has changed from attainment or unclassifiable to nonattainment for either a primary or secondary standard, once EPA accepts and promulgates such redesignations, the State will have nine months after the new designation has been promulgated to submit a state implementation plan revision satisfying the requirements of Part D of the 1977 Clean Air Act Amendments.

All comments should be addressed to: Mr. Howard R. Heim Jr., Chief (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Curtis Building, 10th floor, Philadelphia, PA 19106, Attn: 107PA–1.

(Sections 107(d), 171(2), 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d), 7501(2), 7601(a)).)

Dated: June 12, 1979.

Jack J. Schramm,

Regional Administrator

[FR Doc. 79–20403 Filed 6–29–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Parts 52 and 81]

[FRL 1259–5]

Approval and Promulgation of Nonattainment Plan for Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this notice is to announce the receipt of a State Implementation Plan (SIP) revision for Illinois, to discuss the results of the United States Environmental Protection Agency's (USEPA) review of that revision, and to invite public comment.

On April 3, 1979, the State of Illinois submitted to EPA a proposed revision of its SIP pursuant to Part D of the Clean Air Act as amended in 1977. The revision applies to areas of Illinois that have not attained the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide, ozone, carbon monoxide, particulates, and oxides of nitrogen. As required by the Act, the purpose of this revision is to implement measures for controlling the emissions of these pollutants in nonattainment areas and to demonstrate that these measures will provide for attainment of the National Ambient Air Quality Standards as expeditiously as practicable, but no later than December 31, 1982 for the primary standards; or by December 31, 1987 under certain conditions for photochemical oxidants and carbon monoxide. The requirements for an approvable SIP are described in a **Federal Register** notice published on April 4, 1979 (44 FR 20372), and are not reiterated in this notice. In addition to addressing the requirements of Part D, the Illinois SIP revision incorporates certain general requirements of the Clean Air Act as amended; contains a number of State recommendations to revise the nonattainment designations for particulate, sulfur dioxide, and ozone which were promulgated by USEPA on March 3, 1978 (43 FR 8962) and October 5, 1978 (43 FR 45993); and contains a number of requests for variances. These requests for variances will be addressed in a later **Federal Register** notice.

The Illinois SIP revision also includes provisions covering open burning, mobile source emission standards, diesel locomotive emission standards, adoption of ambient air quality standards, organic emissions from organic water separation, carbon monoxide emissions from petroleum and petroleum chemical catalyst regenerators, sulfuric acid mist emissions, sulfur dioxide emissions for fuel combustion sources in other than major metropolitan areas, emissions from hydrogen sulfide flares at chemical manufacturing plants, compliance dates for organic emission limitations, carbon monoxide from polybasic organic acid partial oxidation processes, nitrogen dioxide emissions from new facilities burning coal refuse, emission limitations for air furnaces, particulate emissions from low carbon waste incinerators, adoption of Federal New Source Performance Standards, and a source specific emission limitation for the Illinois Power Company Baldwin Station. These miscellaneous provisions will be discussed at a later date in a separate **Federal Register** notice.

DATE: Comments on this revision and on the proposed USEPA action on the provisions are due by August 31, 1979.

ADDRESSES: Copies of the SIP revision are available at the following addresses for inspection:

United States Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460.

Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

Written comments should be sent to:

Ms. Maxine Borcherding, SIP Coordinator, USEPA Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

For further information contact:

Ms. Maxine Borcherding, SIP Coordinator, USEPA Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962) and on October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the Clean Air Act (Act), as amended in 1977, USEPA designated certain areas in each state as nonattainment with respect to total suspended particulates (TSP), sulfur dioxide (SO2), carbon monoxide (CO), photochemical oxidants (Ox), and nitrogen dioxide (NO2).

Part D of the Act, added by the 1977 Amendment, requires each State to revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary National Ambient Air Quality Standards as expeditiously as practicable, but not later than December 31, 1982. Under certain conditions the date may be extended to December 31, 1987 for photochemical oxidants and/or carbon monoxide.

On April 3, 1979, the State of Illinois submitted a draft SIP to USEPA so that the Agency could review the plan; and solicit public comment on both the plan provisions and on USEPA's proposed rulemaking. The draft SIP proposes revisions addressing the Clean Air Act requirements for a nonattainment SIP, some general requirements for a statewide SIP, and revisions necessitated by enforcement orders and the granting of variances in isolated areas. The State submittal contains numerous recommendations for revisions to the attainment status of specified townships in 26 counties with particulate nonattainment areas, and in 3 counties with sulfur dioxide nonattainment areas. The technical basis for these recommendations is computer dispersion modeling studies carried out by the Illinois Environmental Protection Agency (IEPA) for each nonattainment area to better define the extent of, and the reasons for nonattainment; and to asses the effectiveness of various control strategy options. The submittal also recommends redesignation of 6 counties from nonattainment for ozone, to either

attainment (where monitoring shows air quality better than NAAQS), or unclassifiable (where ambient air quality violations have not been monitored but where an extensive data base is not available). These recommendations reflect the revision of the National Ambient Air Quality Standard from 0.08 ppm oxidant maximum hourly average, to 0.12 ppm ozone. The recommended changes and USEPA's proposed action on these designations are discussed under each applicable pollutant. The draft regulations have been preliminarily adopted by the Illinois Pollution Control Board. Final adoption of the regulations will occur after completion of the necessary State administrative procedures. The nonregulatory portion of the SIP will be adopted by the Illinois Environmental Protection Agency (Illinois EPA) after a series of public hearings. USEPA will not complete Federal rulemaking until all State procedural requirements are satisfied and the regulatory and nonregulatory portions of the SIP are formally submitted by the Governor or his designee. Any substantive changes in the final SIP which are not discussed or anticipated in this **Federal Register** notice will be addressed in supplemental notices of proposed rulemaking.

The measures proposed for promulgation today will be in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulations or if it chooses, challenging the new regulations. In some instances, the present emission control regulations contained in the federally-approved SIP are different from the regulations currently being enforced by the State. In these situations, the present federally-approved SIP will remain applicable and enforceable until there is compliance with the newly promulgated and federally-approved regulations. Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations, because of a court order or for any other reason, the pre-existing regulations will be applicable and enforceable.

The only exception to this rule is in cases where there is a conflict between the requirements of the new regulations and the requirements of the existing regulations such that it would be impossible for a source to comply with the pre-existing SIP while moving toward compliance with the new regulations. In these situations, the State may exempt a source from compliance with the pre-existing regulations. Any exemption granted will be reviewed and acted on by USEPA either as part of these promulgated regulations or as a future SIP revision.

This notice discusses USEPA's review of the proposed Illinois SIP in two parts: (1) the strategies developed by Illinois to meet National Ambient Quality Standards for each pollutant in designated nonattainment areas; and (2) The revisions necessitated by general requirements of the Clean Air Act Amendments.

In its review, USEPA has specified portions of the proposed SIP which are considered disapprovable, approvable, and conditionally approvable. For minor deficiencies, the SIP will be approved on the condition that the state submit corrections on a specified schedule. The USEPA Regional Office will negotiate with the state on an acceptable schedule. A conditional approval will mean that the restrictions on construction (under Section 110(a)(2)(I) and the SIP) will not apply unless the state fails to submit corrections by the specified date, or unless the corrections are ultimately determined to be inadequate. Conditional approval will not be granted without strong assurance by the appropriate state officials that the deficiencies will be corrected. Conditional approval is discussed in more detail in a separate notice published within a few days of today's issue of the **Federal Register.**

USEPA solicits comments on both the proposed SIP revisions and the proposed USEPA action on these revisions from all interested parties. USEPA specifically solicits public comment on the proposals for conditional approval. USEPA also encourages residents and industries in adjoining states to comment on any interstate air quality impacts of the Illinois SIP.

I. Plan Requirements for Nonattainment Areas

In addition to the general requirements applicable to all state implementation plan revisions, the revised plan must satisfy the requirements of Part D of the Act. The USEPA has reviewed the proposed revision to the Illinois Implementation Plan to determine if it meets these Part D requirements.

In general, the proposed revision is deficient in that it does not meet the requirements of section 172(b)(9). This section requires, among other things, an identification and brief analysis of the air quality, health, welfare, economic, energy and social effects of the plan provisions chosen, the alternatives considered, and a summary of the public comment on the anaylsis. The proposed revision does not include this identification and analysis for all pollutants and does not include a summary of public comment on the anaylsis for any pollutant. The final SIP submittal must contain an identification and analysis of these areas for each pollutant and a summary of public comment on the analysis. Specific deficiencies of the SIP in meeting the Part D requirements are addressed below in the sections on each pollutant.

Total Suspended Particulates

Portions of 29 counties in Illinois were designated as nonattainment areas for particulates. These designations were primarily based on monitored violations of the annual and/or short-term ambient air quality standards. Where the boundaries of the geographic areas actually experiencing nonattainment were uncertain, the State utilized a conservative approach and recommended that a number of townships adjoining those with monitored violations included in USEPA's designated nonattainment areas. USEPA accepted Illinois' recommendations and promulgated designations of nonattainment areas on March 3, 1978 (43 FR 8962) and on October 5, 1978 (43 FR 45993).

Illinois than proceeded to carry out detailed computer dispersion modeling studies of each designated nonattainment area to better define the cause and extent of nonattainment. The results of those studies are summarized

in volume 2 of the SIP document. Copies of each study report are included as appendices to the SIP and are available for public inspection at the addresses noted in the preamble to this Notice. The modeling anaylses comprise the State's technical support for recommending revisions to the nonattainment designations in 26 counties. In nineteen counties, the State recommends that a number of townships previously designated as attainment for TSP be redesignated as nonattainment for primary or secondary NAAQS. In 13 counties the State recommends that a number of townships previously designated nonattainment for primary or secondary NAAQS be redesignated as attainment or unclassifiable. The tables below list the Federally promulgated particulate designations and Illinois' recommended revisions to those designations.

USEPA proposes to approve the designation changes recommended by the Illinois EPA with the exception of the designation for Sangamon County. The current classification for Sangamon County is attainment except for Capital Township which has been designated nonattainment for both primary and secondary standards based on violations recorded by a monitor adjacent to an unpaved parking lot. By letter dated January 26, 1979, IEPA requested an unclassified designation for Capital Township and included supporting information which EPA has reviewed. EPA agrees that the monitored data is sufficiently influenced by reentrained dust to warrant disregarding it for purposes of designation status. Accordingly, EPA proposes to redesignate Capital Township unclassified.

IEPA, in the Part D submission, also revised the attainment designation for several townships in Sangamon to nonattainment for secondary standards based on an air quality modeling study. Because the unacceptable monitoring data referred to above served as a basis for determining the projected air quality, EPA also proposes to designate these townships as unclassifiable. Public comment with respect to USEPA's proposed actions as well as the geographical boundaries of the recommended nonattainment areas designated by Illinois is specifically requested.

Federally Approved Illinois TSP Designations (43 FR 46004, October 5, 1978)

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 65:				
Knox County:				
Galesburg (City)		X		
All other twps				X
Peoria County:				
Kickapoo Twp	X	X		
Limestone	X	X		
Medina		X		
Peoria	X	X		
Richwoods	X	X		
All other twps				X
Tazewell County:				
Cincinnati Twp	X	X		
Fondulac	X	X		
Groveland	X	X		
Pekin	X	X		
Washington	X	X		
All other twps				X
Woodford				X
AQCR 67:				
Cook County:				
Calumet Twp	X	X		
Hyde Park	X	X		
Jefferson		X		
Lake	X	X		
Lakeview		X		
North Town	X	X		
Rogers Park		X		
South Town	X	X		
West Town				
	X	X		
Bloom		X		
Bremen	X	X		
Cicero		X		
Elk Grove		X		
Lyons	X	X		
Maine		X		
Niles		X		
Orland	X	X		
Palatine		X		
Palos	X	X		
Proviso		X		
Rich		X		
Stickney	X	X		
Thornton	X	X		
Wheeling		X		
Worth	X	X		
All other twps				X
DuPage County:				
Addison Twp	X	X		
Wayne		X		
Winfield		X		
York		X		
All other twps				X
Kankakee County:				
Bourbonnais Twp		X		
All other twps				X
Kendall County:				
Little Rock Twp		X		
All other twps				X
Lake County:				
Wauconda		X		
All other twps				X
Will County:				
Crete Twp		X		
DuPage	X	X		
Frankfort				
Joliet	X	X		
Lockport	X	X		
Monee		X		
New Lenox		X		
Plainfield		X		
Troy		X		
All other twps				X
Kane County:				
AQCR 68:				
Jo Daviess County:				
East Galena Twp		X		
Rawlins		X		
West Galena		X		
All other twps				X

Federally Approved Illinois TSP Designations (43 FR 46004, October 5, 1978)—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 69:				
Rock Island County:				
Blackhawk Twp	X	X		
Coal Valley	X	X		
Hampton	X	X		
Moline	X	X		
South Moline	X	X		
South Rock Island	X	X		
Rock Island	X	X		
All other twps				X
Whiteside County:				
Coloma Twp		X		
All other twps				X
AQCR 70:				
Monroe County:				
T. 1S.-R. 10W		X		
All other				X
Madison County:				
Alton Twp	X	X		
Chouteau	X	X		
Collinsville	X	X		
Godfrey	X	X		
Granite City	X	X		
Nameoke	X	X		
Venice	X	X		
Wood River	X	X		
All other twps				X
St. Clair County:				
Canteen Twp	X	X		
Caseyville	X	X		
Centerville	X	X		
St. Clair	X	X		
Stites	X	X		
Stookey	X	X		
Sugar Loaf	X	X		
All other twps				X
AQCR 71:				
Bureau County:				
Shelby Twp		X		
All other twps				X
LaSalle County:				
Dear Park	X			
LaSalle	X	X		
Ottawa		X		
South Ottawa		X		
All other twps				X
AQCR 72:				
Massac County:				
Metropolis Pct		X		
Grant		X		
Washington		X		
All other pct				X
AQCR 73:				
DeKalb County:				
Dekalb Twp		X		
All other twps				X
Winnebago County:				
Cherry Valley Twp		X		
Owen		X		
Rockford		X		
All other twps				X
AQCR 74:				
Jefferson County:				
Dodds Twp		X		
Mt. Vernon		X		
Shiloh		X		
All other twps				X
Williamson County:				
East Marion Twp		X		
West Marion		X		
All other twps				X
AQCR 75:				
Macon County:				
Decatur Twp	X	X		
Hickory Point		X		
Long Creek		X		
South Wheatland		X		
Whitmore		X		
All other twps				X
Sangamon County:				
Capital Twp	X	X		
All other twps				X

Federally Approved Illinois TSP Designations (43 FR 46004, October 5, 1978)—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 65:				
Knox County:				
Galesburg	X	X		
Henderson	X	X		
All other twps		X		
Peoria County:				
Peoria	X	X		
Richwoods	X	X		
Limestone	X	X		
All other twps		X		
Tazewell County:				
Cincinnati	X	X		
Elm Grove	X	X		
Fondulac	X	X		
Groveland	X	X		
Pekin	X	X		
Washington	X	X		
All other twps		X		
Woodford:				
El Paso				X
Kansas				X
All other twps		X		
AQZR 67:				
Cook County:				
Calumet	X	X		
Hyde Park	X	X		
Jefferson	X	X		
Lake	X	X		
Lakeview	X	X		
North Town	X	X		
Rogers Park	X	X		
South Town	X	X		
West Town	X	X		
Berwyn	X	X		
Calumet	X	X		
Cicero	X	X		
Lyons	X	X		
Oak Park	X	X		
Palos	X	X		
Proviso	X	X		
Riverside	X	X		
South Stickney	X	X		
Stickney	X	X		
Thornton	X	X		
Worth	X	X		
Schaumburg				X
Barrington				X
New Trier				X
All other twps		X		
DuPage County:				
Addison	X	X		
Lisle	X	X		
York	X	X		
All other twps		X		
Kankakee County:				
Essex				X
Norton				X
Pilot				X
All other twps	X	X		
Kendal County: All twps		X		
Lake County: All twps		X		
Will County:				
Channahon		X		
Crete	X	X		
DuPage	X	X		
Florence		X		
Frankfort		X		
Green Garden		X		
Homer		X		
Jackson		X		
Joliet	X	X		
Lockport	X	X		
Manhattan		X		
Monee		X		
New Lenox		X		
Peotone		X		
Plainfield		X		
Troy	X	X		
Wheatland		X		
Wilton		X		
All other twps				X

Federally Approved Illinois TSP Designations (43 FR 46004, October 5, 1978)—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Kane County:				
Aurora		X		
Dundee		X		
Elgin		X		
All other twps				X
AQCR 68:				
Jo Daviess County:				
Apple River	X	X		
Councill Hill	X	X		
Derinda		X		
East Galena	X	X		
Elizabeth	X	X		
Guilford	X	X		
Hanover		X		
Menominee		X		
Pleasant Valley		X		
Rawlins	X	X		
Rice	X	X		
Rush		X		
Scales Mound	X	X		
Stockton		X		
Thompson	X	X		
Vinegar Hill		X		
Warren		X		
West Galena	X	X		
Woodbine	X	X		
All other twps				X
AQCR 69:				
Rock Island County:				
Blackhawk	X	X		
Hampton	X	X		
Moline	X	X		
Rock Island	X	X		
South Moline	X	X		
South Rock Island	X	X		
All other twps				X
Whiteside County:				
Clyde		X		
Coloma		X		
Genesse		X		
Hopkins		X		
Hume		X		
Jordan		X		
Lyndon		X		
Montomorency		X		
Mount Pleasant		X		
Prophetstown		X		
Sterline		X		
All other twps				X
AQCR 70:				
Monroe County:				
T.1.N.–R.10W	X	X		
T.1.N.–R.11W	X	X		
T.1.S.–R.10W	X	X		
T.1.S.–R.11W	X	X		
T.2.S.–R.10W	X	X		
T.2.S.–R.9W	X	X		
T.3.S.–R.7W	X	X		
T.3.S.–R.8W	X	X		
All other twps				X
Madison County:				
Chouteau		X		
Godfrey		X		
All other twps	X	X		
St. Clair County: All twps	X	X		
AQCR 71:				
Bureau County:				
Berlin		X		
Bureau		X		
Concord		X		
Dover		X		
Greenville		X		
Lamoille		X		
Manlius		X		
Ohio		X		
Princeton		X		
Selby		X		
Walnut		X		
Wyanet		X		
All other twps				X

Federally Approved Illinois TSP Designations (43 FR 46004, October 5, 1978)—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
LaSalle County:				
Deer Park		X		
Dimmick		X		
LaSalle	X	X		
Ottawa		X		
Peru		X		
Utica		X		
Waltham		X		
All other twps				X
AQCR 72:				
Massac County:				
T.15S.-R.4E		X		
T.16S.-R.4E		X		
All other twps				X
AQCR 73:				
DeKalb County:				
Afton		X		
Clinton		X		
Cortland		X		
DeKalb		X		
Malta		X		
Mayfield		X		
Milan		X		
Paw Paw		X		
Pierce		X		
Shabbona		X		
Somonauk		X		
South Grove		X		
Squaw Grove		X		
Sycamore		X		
Victor		X		
All other twps				X
Winnebago:				
Rockford		X		
All other twps				X
AQCR 74:				
Jefferson County:				
Dodds		X		
Field		X		
McClellan		X		
Mount Vernon		X		
Rome		X		
Shiloh		X		
All other twps				X
Williamson County:				
West Marion		X		
All other twps				X
AQCR 75:				
Macon County:				
Decatur	X	X		
Hickory Point		X		
All other twps				X
Sangamon County:				
Clean Lake		X		
Curran		X		
Fancy Creek		X		
Gardner		X		
Rochester		X		
Salisbury		X		
Springfield		X		
Williams		X		
Woodside		X		
Capital		X	X*	
All other twps				X

*By letter dated January 26, 1979.

To remedy the nonattainment problem, Illinois has proposed new regulations which deal with particulate emissions from iron and steel mills, from industrially related fugitive dust, and from malfunctions of pollution control equipment. USEPA's review and proposed rulemaking for the portion of the Illinois submittal pertaining to emissions from the iron and steel industry will appear in a separate **Federal Register** action. USEPA's proposed rulemaking on the specific rules for the control of industrial fugitive dust and particulate emissions resulting from malfunctions is contained in this section.

The analysis carried out by the Illinois EPA demonstrates that the application of the proposed new regulations with the existing particulate control regulations will not provide for attainment of primary and secondary particulate National Ambient Air Quality Standards by December 31, 1982.

In cases where the attainment of NAAQS cannot be demonstrated despite the application of reasonably available control technology (RACT) to traditional sources of particulate matter such as industrial point and industrial fugitive sources, USEPA will conditionally approve State SIPs contingent upon a commitment by the State to (1) study further the causes for particulate nonattainment, including the degree to which nontraditional area sources affect air quality, and (2) develop and submit to USEPA additional strategies and enforceable regulations adequate to demonstrate attainment by the statutory attainment date. These additional regulations may require point source controls more stringent than RACT if more stringent controls are necessary to demonstrate attainment. The Illinois submittal contains a commitment to carry out the necessary additional studies which would result in the proposal of new regulations by mid-1979, with final compliance by affected sources required by the end of 1982. In USEPA's judgement, this commitment would be adequate to support a conditional approval of the Illinois plan if Illinois submits a more detailed schedule both for the completion of the proposed studies and for the adoption of additional point source and area source regulations. This schedule should only contain projected dates for all necessary actions to be carried out by the Illinois EPA, the Illinois Pollution Control Board (IPCB) and the Illinois Institute for Natural Resources. The State must also specifically commit itself to develop and to seek adoption of point source controls beyond RACT if such controls are shown to be necessary to demonstrate attainment in designated nonattainment areas.

USEPA has noted the following deficiencies in the attainment demonstration portion of the Illinois submittal.

(1) The attainment demonstration claims emission reduction credits for strategies either yet not included in the SIP or not clearly enforceable under the SIP. For example, although the demonstration claims emission reduction credits for area source controls, regulations to control non-traditional area sources have not yet been developed. The lack of enforceability of the proposed fugitive emission regulations is discussed in detail in the portion of this Notice dealing with those rules. These credits cannot be claimed unless fully enforceable regulations appear in the SIP ensuring that reductions will occur.

(2) The Illinois SIP submittal does not adequately describe the level of control technology which is required by sources covered under the process weight regulations of Rules 203(a) and 203(b). This information must be submitted as the State's basis for determining RACT.

(3) The impact of Illinois Pollution Control Board (IPCB) variances on ambient air quality does not appear to have been addressed in the attainment demonstration. The final State submittal should clarify how these variances were treated in the analysis. This impact must be included in the next compliance modeling analysis as well.

A demonstration of attainment of the particulate National Ambient Air Quality Standard must be accompanied by a compliance modeling analysis. Estimates of fugitive dust impacts must be supported by a comprehensive analysis of meteorological data, monitored air quality data and filter analysis. The air quality impact of variances issued by the IPCB must be addressed and included in the compliance modeling analysis. Finally, a summary of the results of the modeling analysis must be submitted. The summary should include a map identifying monitored and modeled receptor locations; and the highest predicted annual and highest and second highest concentrations predicted in the short term analysis at all receptors on all days modeled. A description of the deviations and use of background concentrations should be included.

USEPA proposes to conditionally approve the Illinois particulate submittal if the noted deficiencies are corrected prior to USEPA final rulemaking or on a schedule negotiated between the State and the USEPA Regional Office.

USEPA proposes to review its conditional approvals upon the State's submission of plan revisions which indicate that Illinois has fulfilled its commitments within the specified time frames. USEPA will repropose Federal Rulemaking on the expanded Illinois SIP submittal at that time.

Fugitive Particulate Emission Control Regulations

Fugitive particulate emissions from industrial sources are regulated by Rule 203(f) of the Illinois Air Pollution Control Regulations. Illinois has submitted a revision to this rule which requires, with some exceptions, that all mining operations, manufacturing operations and electric generating operations located in specific townships place controls on storage piles, plant roads, railcar unloading and various materials handling and processing operations. USEPA has reviewed Rule 203(f) and determined that it has specific deficiencies. USEPA proposes to approve this regulation if corrections are made in the final submittal, or on a schedule negotiated between the State and the USEPA Regional Office. The specific deficiencies are listed below:

1. The revised Illinois regulation requires sources to operate under the provisions of an operating program prepared by the source. The program may employ alternative methods of control for fugitive particulates as long as the alternative is equivalent to the controls specified in the regulation. Although the sources' operating programs must be submitted to Illinois EPA for review, there are no provisions in the regulation for approval or disapproval of the operating programs by Illinois EPA. Consequently the sources' operating programs are not enforceable emission limitations and any air quality demonstration taking

credit for the impact of this regulation will significantly overestimate emission reductions. Further, enforcement of the regulation is difficult since there is no provision for making the conditions for the operating program enforceable by either the USEPA. USEPA proposes to approve this provision conditioned upon the State's remedying these deficiencies by revising the regulation so that fugitive operating programs are subject to Illinois EPA approval or disapproval action. The deficiencies must be remedied according to a schedule which details the steps to be taken. The schedule is to be negotiated with the Regional Office.

2. The rule does not apply to all particulate primary nonattainment areas as originally designated or as proposed for redesignation in the proposed SIP. Part D of the Clean Air Act required that these SIP revisions provide for the application of all reasonably available control measures and provide for the attainment and maintenance of the National Ambient Air Quality Standards in all designated nonattainment areas as expeditoiusly as practicable but no later than December 31, 1982. Illinois has stated that the proposed rule applies to all primary nonattainment areas with existing major sources of fugitive particulate matter. Although this is acceptable, the rule must also include a provision to require controls on fugitive particulate sources which locate in a nonattainment county not specifically covered by this rule. Illinois can satisfy the requirements of section 172 either by expanding the applicability section of the rule to include all designated primary nonattainment areas or by adding a provision to cover new sources in all primary nonattainment townships. USEPA proposes to approve this provision on the condition that the State commit itself to expand the applicability section of this rule to include sources in Joliet Township in Will County which was originally designated nonattainment and to include sources in Lisle Township in DuPage County and Elm Grove Township in Tazewell County, once the proposed nonattainment designations for these areas are approved; or if the State includes a provision in the rule requiring controls on new fugitive emission sources locating in a primary nonattainment area.

3. The Illinois proposal provides that emissions from storage piles, conveyor loading operations and access areas surrounding storage piles need controls only if potential storage pile emissions are greater than 50 tons per year. This 50 ton cutoff exempts numerous small sources from control requirements. If the State can demonstrate in the technical support documents that emissions from these exempted source categories are not significant contributors to nonattainment, the EPA will approve this provision. If the State cannot make this demonstration, it must commit itself in the final SIP submittal to adopting reasonably available controls for these source categories as well. To obtain approval; Illinois must commit itself to develop a more comprehensive emission inventory which identified the size and location of storage piles in nonattainment areas covered by this rule. Emission reduction credits used in the final attainment demonstration must only be taken for storage piles regulated under this rule.

4. The Illinois proposal for control of particulates is deficient in that it does not contain an acceptable method for determining potential emissions from storage piles. An acceptable method must be included in the Rule.

5. The technology specified in 203(f)(3)(F), i.e. spraying with water, surfactants, or choke feeding, for railcar unloading operations and various mineral handling and processing operations does not include enclosure and particulate collection equipment as potential options. The technical support document should provide additional data to demonstrate that the State considered these alternative control measures in determining RACT for all sources. In addition, data should be submitted to quantify the emission reductions to be obtained through these provisions for each category of sources covered.

6. The Illinois proposal does not contain a method for determining whether mineral processing operations, railcar handling, and other processing operations are in compliance with operating progams required by the regulation. An exception to this deficiency is the opacity limitation for conveying operations for which a compliance method is specified. Without a specified method for determining compliance, the regulation is not enforceable and emission reduction credits for its implementation cannot be taken. The SIP must clearly specify the method and procedure by which compliance with the regulation is to be assessed. If the State gives assurances it will revise the regulation by a specified deadline to include either acceptable visible emission requirements or an acceptable substitute for measuring compliance, USEPA will conditionally approve this provision.

7. Rule 203 must contain provisions to control particulate matter which is generated inside buildings or other enclosed structures and then emitted to the ambient air. If such sources are covered by Rules 203(a) or 203(b), a measurement method for determining compliance with the process rate rules must be specified.

Maintenance-Malfunction

Illinois has submitted proposed revisions to the malfunction and maintenance provisions contained in three rules. Rule 101 has been amended to include definitions of "Excess Emissions," "Malfunction," "Breakdown," "Startup," and "Shutdown." An Amendment to Rule 103 modifies Rule 103(b)(7) by deleting a specific authorization to the Illinois EPA to impose conditions in operating permits requiring adequately maintained air pollution control equipment through a maintenance program. This requirement is now found in proposed Rule 105. Illinois proposes to replace its existing Rule 105 with a new rule governing maintenance, malfunctions, breakdowns, startups and shutdowns. This Rule:

1. Prohibits the operation of an emission source during breakdowns if continued operation would cause excess emissions.

2. Prohibits the operation of an emission source during malfunctions if its continued operation would cause excess emissions unless both the provisions for recording and reporting excess emissions and the provisions for operation during malfunction, startup or shutdown are met.

3. Prohibits excess emissions during startup or shutdown unless an operating permit has been granted allowing such excess emissions and the source is in compliance with all conditions in the current operating permit.

4. Prohibits persons in specific townships from replacing the air pollution control equipment on any source of particulate matter with less effective control equipment.

5. Provides that every owner or operator of an emission source or air pollution control equipment must maintain such equipment in accordance with a maintenance program. The owner or operator must describe this program to the IEPA upon request. The Illinois EPA, however, does not have the authority to approve the maintenance program.

6. Provides record keeping and reporting requirements for any person who causes or allows the continued operation of an emission source during a malfunction of specified duration and magnitude.

7. Provides that it will be a defense to an enforcement action alleging a violation of any applicable emission limitation or air quality standard occurring during a malfunction, startup, or shutdown if all seven specified criteria are met.

USEPA has reviewed the revisions to Rules 101 and 103 and the new Rule 105 and proposes to approve these rules as submitted. As to Rule 105, however, USEPA has determined that any emission reduction claimed in air quality demonstrations based on the application of this rule are overestimated. Although the Illinois EPA can request a description of the maintenance program, it has no authority to assess its adequacy and to approve or disapprove the program. If the maintenance programs are not subject to approval by the Illinois EPA, their effectiveness cannot be assessed and any emission reductions claimed are optimistic.

Sulfur Dioxide

Portions of Peoria, Tazewell and Massac Counties have been designated by USEPA as nonattainmnent areas for sulfur dioxide (SO2). Illinois relies on existing Rule 204 as its strategy for attaining the SO2 NAAQS. The attainment demonstration submitted by the Illinois EPA shows that when all sources are in final compliance with this rule, the primary and secondary NAAQS will be met. Revisions to portions of the Illinois (SO2) SIP for rural attainment areas were adopted by the IPCB on February 15, 1979 and submitted to USEPA on March 21, 1979. Since these proposed revisions to the Illinois SIP do not address nonattainment areas, they will be discussed in a separate Notice of Proposed Rulemaking.

As a result of additional ambient air monitoring data and air studies carried out to assess the effectiveness of various control strategy options, the Illinois EPA has recommended changes in the geographic boundaries of the nonattainment areas in Peoria and Tazewell Counties. The recommended changes are summarized in the tables below. Technical support for these recommendations are contained in ambient air quality reports and reports of air quality studies which were submitted as appendices to the SIP. These documents are available for public review at the locations specified in the preamble to this Notice. USEPA proposes to approve the recommended designation changes in Peoria and Tazewill Counties. Illinois EPA also recommends revisions to the attainment designations in Massac County. The bases for these recommendations and USEPA's proposed action is discussed in the following section.

Federally Approved Illinois SO_2 Designations for the Following Specified Counties: Peoria, Tazewell, and Massac (43 FR 46006, October 5, 1978)

Designated areas	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 65:				
Peoria County:				
Hollis Twp	X			
Limestone Twp	X			
Medina Twp	X			
Peoria Twp	X			
Kickapoo Twp	X			
Richwoods Twp	X			
All other Twps				X
Tazewell County:				
Cincinnati	X			
Elmgrove Twp	X			
Groveland Twp	X			
Pekin Twp				X
All other Twps				X
AQCR 67:				
Massac County:				
Grant Pct	X	X		
Metropolis	X	X		
Hillerman Pct	X	X		
All other Massac Pcts				X
AQCR 65:				
Peoria County:				
Hollis Twp	X			
Limestone	X			
Logan	X			
Medina				X
Peoria	X			
Kickapoo				X
Richwoods				X
All other Twps				X
Tazewell County:				
Cincinnati Twp		X		
Elmgrove		X		
Groveland	X			
Pekin	X			
All other Twps				X
AQCR 72:				
Massac County: All Massac Pcts	X			

The Illinois strategy for designated sulfur dioxide nonattainment areas is generally acceptable but contains the following deficiencies:

1. The Illinois analysis indicated a potential for violations of the SO2 ambient air quality standards in a narrow corridor in the vicinity of Pekin, Illinois. The analysis utilized the AQSTM air quality dispersion model to determine the adequacy of Rule 204 to attain short-term ambient air quality standards. USEPA has determined that AQSTM cannot be considered an equivalent model according to USEPA modeling guidelines. The Illinois EPA submittal proposes to correct this deficiency by re-evaluating SO2 air quality utilizing revised modeling techniques consistent with the USEPA modeling guidelines in the Peoria and Tazewell County nonattainment areas and in the portions of the Chicago and St. Louis metropolitan areas currently designated as unclassifiable for SO2. The Illinois EPA's SIP submission indicates that the reanalysis will be carried out when the necessary computer capabilities become available within approximately one year. The USEPA proposes approval of this approach to correct the noted deficiency.

2. The primary nonattainment designation for Massac County was based on monitored air quality

violations. These violations were due to emissions from two existing power plants in Illinois and Kentucky which were not in compliance with the applicable SIPs. These power plants have entered into compliance agreements with their respective States and are meeting their compliance schedules. In USEPA's judgment, ambient air quality in Massac County will significantly improve when these sources reach final compliance.

The nonattainment designation for secondary standards was based on modeling utilizing the AQSTM air quality dispersion model. Since this is not a reference or equivalent model according to USEPA modeling guidelines, the actual attainment status of Massac County is uncertain. Illinois proposes to correct this deficiency by expanding ambient air quality monitoring in the county and re-evaluating the potential for future violations of the short-term NAAQS utilizing revised modeling techniques consistent with USEPA modeling guidelines. The USEPA proposes to approve this approach and further proposes to redesignate Massac County as unclassifiable until the air quality monitoring and dispersion modeling studies for primary and secondary SO2 NAAQS are completed.

3. Due to court challenges at the State level, existing Rules 204(a)(1) and 204(c)(1)(A) have become unenforceable by the State in State Court. This deficiency in the enforceability of the regulations is being addressed in a separate **Federal Register** action.

USEPA proposes to conditionally approve the Illinois SIP submittal as being adequate to attain and maintain SO2 NAAQS in Illinois. USEPA further proposes to re-evaluate its conditional approval upon submission by the State of Illinois of its revised attainment demonstrations in approximately one year.

Ozone

The Illinois SIP submittal contains provisions to control hydrocarbon emissions from mobile and stationary sources. The proposal also recommends changes in ozone nonattainment designations for 6 counties. These recommendations are the result of the revision of the National Ambient Air Quality Standard from 0.08 ppm oxidant (maximum hourly average) to 0.12 ppm ozone. Where ambient monitoring shows air quality clearly better than the revised standard, the State recommends that the counties be designated as attainment. Where ambient air quality violations have not been monitored but where an extensive data base is not available Illinois recommends designations of unclassifiable. Technical support for these recommendations are contained in air quality reports included in appendices to the SIP and are available for public inspection at the addresses noted in the preamble to this Notice.

The tables below list the Federally promulgated ozone designations and Illinois' recommended revisions to those designations. USEPA proposes to approve these revised designations. Public comment is specifically requested with regard to the State's proposed changes and USEPA's proposed designation action.

Federally Approved Illinois Oxidant Designations for the Following Specified Counties: Champaign, McLean, Rock Island, Winnebago, and Macon (43 FR 8962, March 3, 1978)

Designated areas	Does not meet primary standards	Cannot be classified	Better than national standards
AQCR 66:			
Champaign County			X
McLean County			X
AQCR 69:			
Rock Island County		X	
ACQR 73:			
Winnebago County		X	
AQCR 75:			
Macon County			X

Proposed Illinois Oxidant Designations for the Following Specified Counties: Champaign, McLean, Rock Island, Winnebago, and Macon (43 FR 8962, March 3, 1978)

Designated areas	Does not meet primary standards	Cannot be classified	Better than national standards
AQCR 66:			
Champaign County	X		
McLean County	X		
ACQR 69: Rock Island County	X		
ACQR 73: Winnebago County	X		
ACQR 75: Macon County	X		

Hydrocarbons From Stationary Sources

Section 172(b)(2) of the Clean Air Act requires the application of reasonably available control technology to stationary sources of volatile organic compounds in nonattainment areas. Stationary source controls representing RACT are found in Rule 205 of the Illinois Air Pollution Control Regulations. USEPA has reviewed Rule 205 and determined that with certain exceptions, Rule 205 is approvable as submitted. Specific deficiencies are noted as follows:

1. The Illinois proposal exempts from controls solvent cleaners which emit less than 15 lbs. per day or 3 lbs. per hour of volatile organic compounds. This broad exemption is not consistent with EPA's Control Techniques Guidelines for control of volatile organic compounds from solvent metal cleaning. Although the State indicates that its proposed rule is more restrictive than the Control Technique Guideline recommendation, data to justify this position are not included in the proposed State Implementation Plan nor in the technical support document. EPA proposes to approve this provision conditioned upon a showing by the State that the State's proposal is indeed more restrictive than federal RACT guidelines. Alternatively, EPA will accept a showing that the emission reductions to be obtained by the State's proposal are within 5% of the emission reductions which would be obtained from the control recommended in the CTG.

2. The State's proposed SIP revision allows an alternative compliance option for owners and operators of surface coating lines. Sources may be exempted from the requirements for high solid coating materials if volatile organic emissions are controlled by an after-burner system providing capture and destruction of the nonmethane volatile organic materials. However, the State proposal is unclear as to whether it requires 75% capture of emissions, or 75% overall control efficiency. This must be clarified directly in the rule, or in the Board's resolution adopting the rule.

The State's proposal differs from the 90% capture and 90% destruction (81% overall control efficiency) which is generally considered available technology. This alternative compliance option is approvable if Illinois can provide a technical basis for choosing the selected overall control efficiency as representing reasonably available control technology for this category of sources or if Illinois can demonstrate that the emission reduction to be achieved through the use of alternative compliance options are within 5% of the emission reductions which would be obtained by the application of high solvent coating materials for surface coating operations. USEPA is specifically soliciting public comment regarding this provision of Rule 205.

3. Rule 205 contains an internal offset provision which allows the use of daily weighted averages for all lines at all types of coating plants. While this provision is generally acceptable, it contains a number of deficiencies which must be corrected before the regulations can be fully approved. Specifically, the State must provide a rationale for the use of internal offset provisions for all categories of coating plants. The State

must specify the methodology by which the internal offset provision will be enforced. The test method in Rule 205(i) must be clarified as to the specific methodology to be employed for determining control efficiency. Finally, it must be clearly specified in the rule or in the Board's resoultion that non RACT sources cannot be used to provide internal offsets. USEPA is specifically soliciting public comment regarding this provision of Rule 205.

4. The Illinois regulation allows seasonal exemptions from the use of afterburners and cutback asphalt. In order for these exemptions to be approved the State must demonstrate through the use of air monitoring data that violations of the National Ambient Air Quality Standard for ozone have not occurred in any of the affected areas during the exempt period.

5. The current Illinois State Implementation Plan requires loading rack controls for all bulk gasoline terminals with throughput of greater than 40,000 gallons per day. The ultimate compliance date for these controls was April of 1975. The proposed Illinois SIP revision restricts emissions of volatile organic compounds from all terminals which receive products via barge or pipeline, irrespective of size. The proposal extends the final compliance date for all affected facilities until July 1, 1980. Extension of ultimate compliance dates for facilities covered under the existing Illinois SIP may not be approved. Therefore, EPA is proposing to disapprove the compliance schedule in Rule 205(j) for the following bulk gasoline terminals:

1. F.S. Services, Albany, Illinois
2. Conoco-Skelly, Amboy, Illinois
3. Shell Oil Co., Argo Terminal, Bedford Park, Illinois
4. Clark Oil and Refining Corp., Peoria Terminal, Bartonville, Illinois
5. GATX, Bedford Park, Illinois
6. Clark Oil and Refining Corp., 131st and Kedzie, Blue Island, Illinois
7. Martin Oil Service, Inc., 13100 S. Kedzie, Blue Island, Illinois
8. Shell Oil Co., Bradley Plant, Bourbonnais, Illinois
9. Allied Oil (Ashland) or (Asland), 3301 S. California, Chicago, Illinois 60608
10. APEX, 33rd and Kedzie, Chicago, Illinois
11. Citgo, 3712 S. Cicero, Chicago, Illinois
12. Mobil Oil Corp., 3801 S. Cicero, Chicago, Illinois
13. Marine Oil, 4100 S. Cicero, Chicago, Illinois
14. Union Oil, 4801 S. Harlem, Forest View, Illinois 60402
15. Citgo (J. D. Street), 5101 S. Harlem, Forest View, Illinois
16. Buck Terminals, 12200 S. Stoney Island, Chicago, Illinois 60633
17. Lake River Terminals, 5005 S. Harlem, Berwyn, Illinois 60402
18. ARCO, Chiccicothe, Illinois
19. Mobil Oil Corp., 3501 S. Cicero, Cicero, Illinois 60650
20. Marco Chemical, Clinton, Illinois
21. Central Farmers, Cowden, Illinois
22. ARCO, Badger and Oakton, Des Plaines, Illinois
23. W. R. Grace, Henry, Illinois
24. Olin Chemical, Joliet, Illinois
25. F. S. Service, Kingston Mines, Illinois
26. Allied Chemical, Lake Calumet
27. Texaco, Lawrenceville, Illinois
28. Northern Petro-Chemical, Lemont, Illinois
29. Tri-Central Marine, Lemont, Illinois
30. Chicago Refinery, Lemont, Illinois
31. Texaco, Lockport, Illinois
32. Illinois Nitrogen, Marseilles, Illinois
33. Illinois Road Contractors, Meredosia, Illinois
34. Mobil Chemical, Meredosia, Illinois
35. W. R. Grace, Meredosia, Illinois
36. Jon T. Chemical, Norris City, Illinois
37. F. S. Services, Norris City, Illinois
38. Hicks Marine Terminal, North Pekin, Illinois
39. Hicks Terminal, North Pekin, Illinois
40. Mobil Oil, Peoria, Illinois
41. Martin Oil, Peoria, Illinois
42. First Miss (Arco), Peru, Illinois
43. Sunmark Industries, Peru, Illinois
44. Marathon Oil, Robinson, Illinois
45. Amoco Oil, Rochelle, Illinois
46. Arco, Rockford, Illinois
47. Smith Oil, Rockford, Illinois
48. Shell Oil, Roxana, Illinois
49. Central Farmers', Seneca, Illinois
50. Allied Chemical, Smith Bridge, Illinois
51. Marathon Oil, Staley, Illinois
52. Sweeny Oil, 5200 W. 41st Street, Chicago, Illinois 60650
53. U.S. Agri-Chem, Tilton, Illinois
54. Gulf-Central Pipeline, Trilla, Illinois
55. Phillips Petroleum, W. Kankakee, Illinois
56. Marathon Oil, Willow Springs, Illinois
57. Amoco Oil, Wood River, Illinois
58. Marathon Oil Co., Des Plaines Terminal, 3231 Busse Road, Arlington Heights, Illinois
59. Martin Oil Service, Inc., 13100 S. Kedzie, Blue Island, Illinois
60. Amoco Oil Co., Chicago Terminal, 4811 S. Harlem, Forest View, Illinois
61. Marathon Oil Co., Marathon Terminal, Willow Springs, Illinois
62. Atlantic Richfield Co., Elk Grove Village, Illinois
63. Cities Service Oil Co., Arlington Heights, Illinois
64. Amoco Oil Co., O'Hare Terminal, Des Plaines, Illinois
65. Shell Oil Co, Effingham Plant, Effingham, Illinois
66. Marathon Pipeline Co., Wood River Terminal, Hartford, Illinois
67. Mobil Oil Co., Sauget Terminal, Sauget, Illinois
68. Smith Oil Corp., Fulton Terminal, Fulton, Illinois

EPA is proposing to approve the compliance date in Rule 205(j) for all other bulk gasoline terminals in the State of Illinois covered by Rule 205(o).

EPA is proposing to conditionally approve Rule 205 as a revision to the Illinois SIP upon receipt of satisfactory assurances from the State of Illinois that the above noted deficiencies will be corrected within a reasonable time. These deficiencies must be corrected prior to submission of a final State Implementation Plan document or on a schedule negotiated between the State and the USEPA Regional Office.

Carbon Monoxide

Two areas of Illinois have been designated nonattainment for carbon monoxide. These areas include portions of Peoria County and Cook County. The proposed Illinois SIP bases its control strategy for achieving attainment in these areas on the control of emissions from mobile, sources, with emissions from stationary and area sources considered as having secondary effects. Illinois recommends the use of the measures, projects, and studies discussed in the Transportation Section of this notice for the control of emissions from mobile sources. These provisions are adequate, if the specific deficiencies discussed in the Transportation Section are corrected within the specified timeframe.

Nitrogen Dioxide

The National Ambient Air Quality Standard for nitrogen dioxide is being met throughout the State of Illinois with the exception of a portion of the Chicago Central Business District. The proposed Illinois SIP revision relies on the continued implementation of the Federal Motor Vehicle Control Program (FMVCP) to demonstrate attainment in this area by December 31, 1982.

Because evidence exists that the nitrogen dioxide problem is more severe and more extensive than originally indicated, USEPA recommends approval of these provisions if the State commits itself to make additional analyses as part of its annual reasonable further progress demonstrations and, if necessary, to adopt and implement any addtional measures to assure attainment.

Transportation Control Plans

The Clean Air Act requires that State Implementation Plans include provisions for meeting the ambient air standards for carbon monoxide and ozone by the end of 1982. If that is not possible despite implementation of all reasonably available control measures, an extension to the end of 1987 may be given, provided there is a schedule and commitment to implement an inspection/maitnenance (I/M) program and adopt certain transportation strategies. The strategies to attain the

standards include reaonsably available control measures (RACM), transportation systems management (TSM) and inspection/maintenance of automobiles.

The State has adopted transportation strategies for the following urban nonattainment areas: Northeastern Illinois Area, Peoria Metropolitan Area, the St. Louis Interstate Area, and the Springfield Metropolitan Area. SIP revisions for the transportation planning processes have been submitted by designated lead local agencies and approved by the State of Illinois for the Rock Island, Rockford, Decatur, Champaign-Urbana and the Bloomington-Normal areas. Transportation strategies to demonstrate attainment of the ozone and carbon monoxide standards have been submitted for the Chicago, Peoria, St. Louis, and Springfield areas. SIP revisions for these four areas are generally approvable. Deficiencies are noted below for each urban area. Corrections by the State of Illinois must be made in the final SIP submittal to USEPA. If corrections cannot be completed prior to final submittal, the final submittal must include detailed schedules to correct the deficiencies for each urbanized area.

(1) *Peoria Metropolitan Area Transportation SIP.*—The Peoria area was designated as nonattainment on the basis of monitored violations of the original 0.08 part per million standard and has violated the revised 0.12 ppm ozone standard. The Illinois EPA has demonstrated that the Peoria area will reach attainment of the ozone standard by 1982 without transportation controls. Therefore, no transportation control plan for ozone is required in the SIP. The lead local agency has developed a transportation plan in order to obtain additional emission reduction credits and to accommodate new growth. Although the submittal is generally approvable, the following deficiencies in the portion of the plan relating to the planning process should be corrected.

(a) The Tri-County Regional Planning Commission should include a detailed description of the transportation planning process, including either the existing or an improved time schedule describing the flow of projects from committees to the Transportation Systems Management document to the Transportation Improvement Program Annual Element and through the State Department of Transportation section 105 funding process.

(b) The Tri-County Regional Planning Commission should include procedures for its annual determination of the consistency and conformance of its transportation plan and process with the revised State Implementation Plan. This process is to utilize the USEPA/Federal Highway Administration (FHWA)/the Urban Mass Transportation Administration (UMTA) Region V Standard Operating Procedures of November 1978 which relate to section 109(j) of the Federal Highway Act and to section 176(c) of the Clean Air Act. Section 109(j) is the FHWA requirement that regional transportation plans and programs be consistent with the SIP. Section 176(c) of the Clean Air Act requires that the regional transportation planning agencies only take action in conformance with the SIP.

(c) The Tri-County Regional Planning Commission should detail how projected emission reductions from existing Transportation Systems Management (TSM)/Transportation Improvement Program (TIP) projects will be annually assessed, monitored, measured and reported to the Illinois EPA as a demonstration of meeting the reasonable further progress (RFP) line.

(d) The final SIP should include a detailed schedule for the analysis of the social, economic, health, air quality, energy and welfare impact of the strategies contained in section 108(f) of the Clean Air Act.

(e) The Illinois EPA has retained the technical and analytical lead for carbon monoxide "hot spot" indentification. The Tri-County Regional Planning Commission must fully describe how the Illinois EPA will notify Tri-County RPC of these "hot spots," how the Tri-County RPC will address these "hot spots" on a priority basis, and how Tri-County RPC will monitor the results. All projected "hot spots" must be listed in the final SIP submission. As a condition to approval, the Tri-County RPC must report annual progress to the Illinois EPA and the Illinois EPA must report to USEPA on the elimination of projected violations. These projected violations must be eliminated in such a manner that attainment of the standard is assured by December 31, 1982.

(f) The Tri-County Regional Planning Commission should develop a thorough process for advising local officials and implementors on air quality needs to meet the reasonable further progress line and to insure attainment by December 31, 1982. The Tri-County RPC should detail to USEPA how it will use its proposed public information questionnaire related to transportation projects. The revised SIP submission should identify when the questionnaire will be distributed, when responses will be collected, and how responses will be evaluated and used in the Transportation Improvement Program and Transportation Systems Management planning process.

(2) *Springfield Portion of the Illinois SIP.*—The Springfield Metropolitan area has been designated by the Illinois EPA as nonattainment only for photochemical oxidants. As this area is under 200,000 population, it is considered rural for the purpose of ozone standard attainment. Attainment is demonstrated by 1982 without the use of transportation controls. Therefore no transportation plan submittal is required for the Springfield area. The lead local agency has developed a transportation plan in order to obtain additional emission reduction credits and accommodate new growth. The submittal is generally approvable. However, the following deficiencies in the plan should be corrected.

(a) The Sangamon County Regional Planning Commission should include procedures for its annual determination of consistency and conformance with the State Implementation Plan. This is to be accomplished through the annual certifications of section 109(j) of the Federal Aid Highway Act and section 176(c) of the Clean Air Act, as amended. The USEPA/FHWA/UMTA Region V Standard Operating Procedure of November 1978 should be used to make these certifications.

(3) *St. Louis Metropolitan Area, Illinois Portion.*—The Missouri and Illinois portions of this interstate area have been designated as nonattainment for photochemical oxidants. Only the Missouri side has been designated as nonattainment for carbon monoxide. An extension to 1987 to attain these standards has been requested. The submission is generally acceptable to USEPA-Region V and Region VII. However, the deficiencies noted below must be corrected within six months of the final SIP submission.

(a) The East-West Gateway Coordinating Council's final submission must describe more definitive processes related to the approval or rejection of potential Transportation Systems Management Strategies. This description should detail the process and criteria used by the East-West Gateway Coordinating Council to assess air quality, health, economic, energy and social impacts of the strategies.

(b) As Metropolitan Planning Organization (MPO) and lead local agency under section 174 of the Clean Air Act, the East-West Coordinating Council formally adopted the air quality attainment plan. However, no implementor commitments have been

included in the SIP submission. The East-West Gateway Coordinating Council's Air Quality Task Force may correct this deficiency through individual approval by the agencies represented on the Air Quality Committee.

(c) The East-West Coordinating Council must submit a schedule for the alternative analysis and a schedule for the use of the alternatives analysis in the overall transportation planning process in the final SIP submission.

(d) The East-West Gateway Coordinating Council must describe its procedures for determining if the transportation plan and projects meet the requirements of section 109(j) of the Federal Highway Act and section 176(c) of the Clean Air Act. These requirements assure that the transportation plan and program conform to SIP requirements and meet the mobile source reasonable further progress line.

(e) The East-West Gateway Coordinating Council's draft submission takes credit for a 50 percent increase in mass transit ridership. This increase includes a diversion of ridership from private automobiles to buses. The East-West Coordinating Council states that the full technical justification for these figures is in the East-West Gateway adopted Transit Development Plan (TDP) as approved by the Urban Mass Transit Administration, Region VII. To make the Illinois portion of the SIP complete, the East-West Gateway Coordinating Council must submit the full transportation Transit Development Plan to USEPA Region V for detailed review.

Further, the East-West Gateway Coordinating Council should certify that funds will be committed to those TDP projects which would result in the projected 50 percent ridership increase and 50 percent auto to bus diversion. Current certification of available and committed Federal capital and operating support must be received from the Urban Mass Transportation Administration, Region VII and Region V. Similar letters of commitment must be obtained from State, local or other funding sources as necessary. The East-West Gateway Coordinating Council's SIP submission must include a schedule for the submission of the Transit Development program funding commitments and include a fall-back procedure if such funding or purchases are not received on the projected time schedule.

(4) *Northeast Illinois (Chicago) Portion of the SIP.*—The six county northeast Illinois area has been designated nonattainment for ozone. Portions of this area have been designated as nonattainment for carbon monoxide and oxides of nitrogen. The SIP contains an extension request to 1987 for Carbon monoxide and photochemical oxidants. The Chicago transportation SIP is generally approvable with some revisions necessary in the final submission. These revisions or a detailed schedule to complete these revisions within six months after the final SIP submission must be included in the final State submittal.

(a) The Chicago area planning and implementation agencies must specify a time frame within which the transportation planning study areas will be more specifically defined for the purposes of air quality transportation planning.

(b) The final submission must include an interagency agreement of the purpose, goals, and organization of the local air quality advisory committee. Additionally, the future roles of this air quality advisory committee must be detailed.

(c) The Chicago planning and implementation agencies must include in the final submission:

(1) By the end of the public comment period, the State and local agencies are to identify representative air quality measures from adopted TIP/TSM programs, their associated emission reductions and details of their implementation schedules. Without this submission USEPA would find the plan deficient.

(2) A showing that the detailed alternatives analysis to be carried out and completed by July 1980 is integrated into the ongoing planning and programming cycle. This showing must indicate the steps and time frames for implementating strategies after completion of these analyses. Time frames for TSM adoption, TIP adoption and submission to Illinois DOT, submission for legislative approval, and procurement of Federal funding must be included.

(d) Chicago planning and implementing agencies must assure that there is a constant flow of information to locally elected officials regarding transportation control measures and analyses.

(e) The Chicago planning and implementation agencies must include in the final submission a detailed time schedule for various public education and information activities and local official consultation activities.

(f) The Chicago planning and implementing agencies must identify in the final SIP submission the costs of strategies, and the sources of funding available to implement strategies necessary to attain the ambient air quality standards.

(g) The Chicago planning and implenting agencies must include in the final submission a detailed explanation of the approach used in evaluating transportation projects for ozone reduction and ozone standard attainment. Documentation on reduction of oxides of nitrogen and carbon monoxide in the Chicago metropolitan area must also be included. Table 56, page 10137 in Volume 5 of the Illinois SIP and the Table on page 47 must be corrected to clearly indicate the impacts of traffic flow improvement strategies. Further, the Table on page 47 must be adjusted to accurately reflect hydrocarbon reductions in tons per year. The final submission must contain evidence of measures used in meeting the reasonable further progress line for mobile source emission reductions. This may be accomplished by listing projects already implemented plus projects adopted and scheduled to be implemented.

(h) The Chicago planning and implementing agencies must commit themselves to being consistent with the State Implementation Plan and meet RFP lines. The SIP submission only includes a Metropolitan Planning Organization (MPO) commitment to the air quality transportation program. The existing MPO resolution neither makes a commitment to ensure attainment of the ozone and carbon monoxide standards nor to meet transportation annual emission reductions for the demonstration of RFP. The Chicago planning and implementing agencies must submit evidence that the key implementors support the transportation measures and processes and are committed to meeting the RFP line. The members of the Air Quality Advisory Committee must sign the Chicago submission as the official commitment of the individual agencies and city departments they represent. This will satisfy USEPA requirements for initial implementor commitments. The final SIP submission must include an MPO commitment to seek meaningful commitments to specific transportation measures on a two part schedule. First, additional commitments will be required in July, 1980 after the completion of the detailed alternative analysis. Second, specific strategy commitments from implementors will be required in the 1982 SIP revisions.

(i) The Chicago planning and implementing agencies must detail how

public transit is given priority in the existing transportation planning process.

(j) The Chicago planning and implementing agencies must include an appendix to the State Implementation Plan showing adequate technical justification both for the projected one percent decrease in mobile source hydrocarbon emissions from transportation projects in the 1977 to 1982 TIP and for the .7 percent decrease in mobile source hyrocarbon emissions estimated from future transportation control measures prior to December 31, 1987.

(k) The Chicago planning and implementing agencies must include in the final SIP submission their procedures for annually determining consistency and conformance with the State Implementation Plan pursuant to section 109(j) of the Federal Highway Act and section 176(c) of the Clean Air Act.

(l) The Chicago planning and implementing agencies must include in the final SIP submission their commitment for accelerated implementation of adopted and soon to be adopted transportation improvements which are identified as having key roles in reducing mobile source emissions to meet the annual RFP increments.

(m) The Chicago Planning and implementing agencies must include in the final SIP submission additional details on reasonable further progress in eliminating carbon monoxide "hot spot" intersections and links. The Illinois EPA is to report annually to USEPA on the Chicago Area Transportation Study and on the efforts of the City of Chicago and other implementors to eliminate specific problem sites. To assure attainment of the carbon monoxide standard by 1987, the specific links and intersections needing "hot spot" strategies must be identified in the SIP. The final submission must include a process by which projects are ranked and given priority by their ability to eliminate violations as an annual increment of RFP.

(5) *Decatur, Champaign-Urbana, and Bloomington-Normal Portions of the Illinois SIP.*—These areas were designated as nonattainment for photochemical oxidants under the original 0.08 parts per million standard. The Illinois EPA has demonstrated that under the revised 0.12 ppm ozone standard these urbanized areas are attainment for photochemical oxidants. The lead local agencies in these areas have made commitments to consider air quality impacts in the regional transportation process. The USEPA/FHWA/UMTA Region V Standard Operating Procedure of November 1978 for annually determining conformance of the transportation plan with the SIP will be utilized as a mechanism to assure continued attainment.

(6) *Rock Island-Quad Cities Portion of the Illinois SIP.*—This area was originally designated nonattainment for photochemical oxidants under the original 0.08 parts per million standard. The Illinois EPA has demonstrated that this area can be reclassified as "unclassified" under section 107, as a result of the revised ozone standard of 0.12 parts per million. One excursion above this standard was recorded in 1978 at the Moline ozone monitor. Although a single excursion does not cause a violation of the standard, the Illinois EPA has recommended that Rock Island be designated unclassified at this time since this is a new site and the observed reading of 0.160 parts per million was well above the standard. As an unclassified area, the Rock Island Metropolitan Planning Organization need only adhere to the November 1978 USEPA/FHWA/UMTA Region V Standard Operating Procedure for determining annual consistency of the transportation plan with the SIP.

(7) *Rockford portion of the Illinois SIP.*—This area was originally designated as nonattainment for photochemical oxidants under the original 0.08 parts per million standard. Illinois EPA has demonstrated that the area can be reclassified as "unclassified" under section 107 of the Clean Air Act, as a result of the revision of the ozone standard. Rockford area ozone monitoring in Winnebago County does not comply with USEPA siting criteria. In 1979, this monitor will be relocated so that more representative data can be collected and the attainment status clarified. As an unclassified area, Rockford need only adhere to the USEPA/FHWA/UMTA Region V Standard Operating Procedures of November 1978 for assuring consistency and conformity of the transportation plan and process with the State SIP. In the final SIP submission, the Rockford urbanized area must include a more detailed description of how air quality impacts will be considered in the planning process.

Inspection/Maintenance Portion of the Illinois SIP

The inspection/maintenance (I/M) program included in the Illinois SIP would involve the eight Illinois counties not able to meet the ozone standard in 1982: Cook, DuPage, Kane, Lake, McHenry, Will, Madison, and St. Clair Counties. These counties constitute the Illinois portions of the Chicago and St. Louis metropolitan areas. Light duty vehicles, light duty trucks, and heavy duty gasoline-powered vehicles would be tested annually. The fully mandatory program would start no later than December 31, 1982.

The Illinois submittal contains certification that the State has sufficient legal authority to implement and enforce and I/M program; complies with USEPA's requirement of a 25% reduction in carbon monoxide and hydrocarbon exhaust emissions by I/M; and contains a schedule for the completion of all actions necessary to implement the program prior to December 31, 1982.

The basis for the State's certification of legal authority is the Illinois Environmental Protection Act (Ill. Rev. Stat., 1977 ch. 111½, §§ 1005–1051, as amended), which gives the Pollution Control Board the authority to adopt regulations requiring the inspection of any vehicle which may cause or contribute to air pollution (Title 2, § 10(f)); and which prohibits any state, department, or agency from licensing any vehicle not in compliance with Board regulations (Title 13, § 48(a)). The I/M implementation schedule contains a commitment by the Illinois Environmental Protection Agency to develop an I/M regulatory proposal and submit it to the Pollution Control Board this year. The Environmental Protection Act (Title 8, § 78) requires the Board to schedule a public hearing on any regulatory proposal submitted by the Illinois Environmental Protection Agency, and to adopt rules and regulations shown to be needed to carry out the intent of the Act (Title 2, § 10).

While there are no major deficiencies in the Illinois I/M submission the State should make a clear commitment to the implementation of a mechanic's training program, since the 1987 mobile source emission inventory takes emission reduction credits for an I/M program that will include mechanic's training. Therefore, USEPA proposes to approve the I/M portion of the Illinois SIP.

New Source Review

The Clean Air Act requires that each SIP accommodate emissions growth in nonattainment areas through either offset provisions or a planned margin for growth. In its Rule for Issuing Permits to New or Modified Air Pollution Sources Affecting Nonattainment Areas, Illinois has elected to use an offset approach to accommodate major source growth and a limited growth margin both for sources not subject to the construction permit

program and for sources temporarily unable to obtain offsets. USEPA has reviewed this proposed revision to the Illinois EIP and has determined that it is approvable conditioned on the correction of the following deficiencies:

1. Illinois does not have regulations requiring a public comment period on permit applications. This is a specific requirement of 40 CFR 51.18 for the review of new sources. This longstanding deficiency in the Illinois SIP affects the issuance of all permits. The deficiency is particularly serious as it applies to new major source permits issued in nonattainment areas. We propose to approve these provisions for new source review if corrections are made in the final submittal or the governor or his designee commits to adopt a procedure allowing public comment on permit applications.

2. The procedures for determining emission offsets are contained in three sections of Section 9. Section 9.1 establishes the baseline by which emission offsets are measured. Section 9.2 provides for banking and transfer of emission offsets. Section 9.3 permits reduction of available emission offsets by a "cap" rule. We have reviewed these three sections and have determined that Section 9.1 is approvable as submitted and that Sections 9.2 and 9.3 have deficiencies which must be remedied.

Both Sections 9.2 and 9.3 can be interpreted to permit the use of so-called "paper offsets", crediting sources with emission reductions where no actual reductions in emissions occur. A demonstration of air quality improvement based on these "paper offsets" would incorrectly predict air quality improvement. Illinois has attempted to correct this deficiency by including a procedure in Section 11 for demonstrating net air quality improvement. As a condition for USEPA approval, Section 11 should be made more explicit as to what constitutes emission offsets for the purpose of demonstrating air quality improvement and section 9.2 should clearly reflect the prohibition of Section 11 against using "paper offsets."

Section 9.3 allows the use of a "cap" rule to reduce the allowable emission standard for existing sources of particulates to the actual emission level as of a certain time. Although the cap rule outlined in this provision is approvable, this same cap rule is not contained in any Illinois Regulation. Section 9.3 should be made consistent with the applicable Illinois air pollution control regulations.

3. Section 8 of the proposed revision states that in making lowest achievable emission rate (LAER) determinations, the Illinois EPA will depend upon information which is reasonably available to the applicant. In defining LAER, the Clean Air Act makes no provision for information that is or is not available to the applicant. This provision will create needless confusion in defining LAER for a source. USEPA will conditionally approve this section if the State defines LAER in a manner consistent with the statutory definition contained in the Clean Air Act.

4. Sections 4.1(a)(3) and 5.1(c) require certification that all major sources owned or operated by the permit applicant in the State of Illinois are in compliance with all applicable SIP requirements and Illinois Pollution Control Board Rules and Regulations. Exceptions from this certification requirement are provided in Section 10 if an enforceable compliance program exists or an applicant is actually seeking to overturn a violated regulation based upon technical infeasibility or economic unreasonableness. Under Section 173(3) of the Clean Air Act, all applicants must demonstrate that all major stationary sources which they own or operate are in compliance or following an aproved and enforceable compliance schedule. Consequently, the exemptions allowed by Sections 4.1(a)(3) and 5.1(c) and specified in Section 10 must be deleted. We condition our approval of these provisions upon the correction of this deficiency.

5. Sections 4.1(b) and 6.2(d) require air quality analyses to be done. The criteria for making these analyses are not specified. We recommend that these provisions state that all estimates of ambient concentrations necessary under this plan be based on appropriate air quality dispersion models, data bases, and other requirements consistent with the "Guideline on Air quality Models" (QAQPS 1.2–080) or in any revised edition of that document. We condition our approval of these provisions on the State specifying criteria for performing the required air quality analyses.

II. General Requirements of Clean Air Act as Amended

The Illinois SIP revision submitted on April 3, 1979 addresses several requirements of the 1977 Amendments to the Clean Air Act that are not Part D requirements. Although incorporation of these provisions is required by law, failure to achieve final approval by July 1, 1979 does not trigger the economic and growth sanctions associated with Part D.

Section 121—Consultation

Section 121 of the Act requires that the State provide a "satisfactory process" for consulting with local governments and Federal land managers to meet certain requirements in the development of the SIP. A satisfactory process of consultation must be included for transportation controls, air quality maintenance, preconstruction review of direct sources of air pollution, nonattainment requirements, prevention of significant deterioration, and certain compliance orders. This process must be ongoing and in accordance with regulations to be promulgated by the USEPA. On May 18, 1978, the USEPA published proposed regulations at 43 FR 21469.

The proposed Illinois SIP includes procedures for consultation in relation to transportation control measures and the I/M program for vehicles but does not provide an ongoing "satisfactory process of consultation" with local governments in the other specified areas. A detailed review of the Illinois consultation process will be deferred until the federal regulations are promulgated.

Section 126—Interstate Pollution

Section 126(a)(1) of the Act requires that the SIP provide for written notice to nearby states of any proposed major stationary source which may significantly contribute to levels of air pollution in excess of the national air quality standards in that state. The Illinois SIP states that procedures for notifying the nearby states of Iowa, Wisconsin, Indiana, Kentucky, and Missouri will be developed and implemented. The final SIP submittal must contain a schedule to develop these procedures and submit them to USEPA in a legally enforceable form or USEPA will declare the SIP deficient.

Section 126(a)(2) requires the State to identify existing major sources which may significantly contribute to levels of air pollution in neighboring states. On October 28, 1977, the State of Illinois sent letters with this information to each bordering state. USEPA proposes to approve this action as meeting the requirement of Section 126(a)(2).

Section 127—Public Notification

Section 127 of the Act requires the SIP to contain measures for effective notification of the public on a regular basis of instances or areas in which any national primary ambient air quality standard is exceeded, to advice the public of hazards associated with such pollution and to enhance public

awareness of measures which can be taken to prevent such standards from being exceeded. The Illinois SIP provides for an annual report on air quality standards, episode levels, health and welfare effects of air pollutants, a description of the air sampling network and summaries and interpretations of air quality data. A quarterly report containing data summaries is available to individuals who request it and provision is made for a mailing list of those individuals interested in receiving the reports regularly. In addition, information may be obtained regarding daily air quality levels by contacting the Illinois EPA, Springfield office. Special bulletins are issued over the Illinois Weather Wire should ambient levels of TSP or Ox reach harmful levels.

Although the USEPA recommends approval of these provisions as adequate to effectively notify the public on a regular basis of instances and areas in which standards are exceeded and to advise the public of associated hazards, the Illinois SIP revision does not include provisions to enhance public awareness of measures which can be taken to prevent standards from being exceeded. Illinois must correct the noted deficiency in the final SIP submittal or commit to make the necessary corrections according to a schedule which must be included in the final SIP package.

Section 128—State Boards

Section 128 of the Act requires that any boards which approve permits or enforcement orders under the Act contain a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under the Act and that members of any such board adequately disclose any potential conflicts of interest. The Illinois SIP revision proposes to meet the requirements of Section 128 through Section 5(a) of the Environmental Protection Act of the State of Illinois, Rule 801 of the Illinois Pollution Control Board's procedural rules, and Article 4A of the Illinois Governmental Ethics Act. These provisions require that members of the Illinois Pollution Control Board, the State permitting body, do not derive any significant portion of their income from persons subject to permits or enforcement orders, are not appointed as representatives of any special interest groups, and are required to make financial disclosure of any conflicts of interest which may develop. USEPA recommends approval of these provisions as meeting the requirements of Section 128.

Section 110(a)(2)(K)—Permit Fees

This section requires the owner or operator of each major stationary source to pay the permitting authority as a condition of any permit required by the Clean Air Act a fee to cover the reasonable costs of processing an application for a permit and of implementing and enforcing the terms and conditions of the permit. The proposed Illinois SIP revision does not address this requirement. USEPA proposes to declare this portion of the Illinois SIP deficient if the State does not commit to submit an adequate permit fee provision within a reasonable time.

Part C—Prevention of Significant Deterioration

In Section 110(a)(2)(D) and Part C, the Clean Air Act establishes limitations on deterioration of air quality in those parts of the nation where the air quality is cleaner than the National Ambient Air Quality Standards. On June 19, 1978, USEPA promulgated regulations (43 FR 26380) to assist the states in preparing SIP revisions to meet these requirements. These SIP revisions were due nine months from the date of promulgation or March 19, 1979. Illinois has not yet submitted a permit program for the prevention of significant deterioration. The SIP submittal states that Illinois intends to develop and implement such a program by the end of 1979. The USEPA proposes to declare the Illinois SIP deficient if a detailed schedule to develop and submit an adequate PSD permit program is not submitted with the final Illinois SIP. In the interim, the USEPA will continue to operate the program pursuant to federal regulations.

Interested persons are invited to comment on the revised Illinois SIP and on USEPA's proposed action. Comments should be submitted to the address listed in the front of this Notice. Public comments received on or before August 31, 1979, will be considered in USEPA's final rulemaking on the SIP. All comments received will be available for inspection at Region V Office Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Under Executive Order 12044 (43 FR 12661), USEPA as required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized." I have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that it is a specialized regulation not subject to the procedure requirements of Executive Order 12044.

This Notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: June 1, 1979.

John McGuire,

Regional Administrator.

[FR Doc. 79-20262 Filed 6-29-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 65]

[FRL 1259-3]

Proposed Delayed Compliance Order for General Electric Co., Erie, Pa.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposed to issue an administrative order to the General Electric Company. The order requires the company to bring air emissions from its coal fired boilers in Erie, Pennsylvania into compliance with certain regulations contained in the Federally-approved Pennsylvania State Implementation Plan. Because the company is unable to comply with these regulations at this time, the proposed order would establish an expeditious schedule requiring final compliance by July 1, 1979. The source has also agreed to post a bond pursuant to section 113(d)(3) of the Act because boiler #2 will be shut down by July 1, 1979 and restarted at some later date in compliance with the applicable State Implementation Plan. Source compliance with the order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air act for violation of the SIP regulations covered by the order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the order.

DATE: Written comments must be received on or before August 1, 1979 and requests for a public hearing must be received on or before July 17, 1979. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it

will be held after twenty-one days prior notice of the date, time, and place of the hearing given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, EPA, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. Material supporting the order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTRACT: Benjamin Kalkstein, Attorney, U.S. Environmental Protection Agency, 3EN31, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, 215/597–3439.

SUPPLEMENTARY INFORMATION: General Electric Company (GE) operates an industrial power plant at Erie, Pennsylvania. The proposed order is being issued pursuant to Section 113(d)(2) and (3) of the Clean Air Act as amended and addresses sulfur oxide emissions from four coal fired boilers at this facility. The order requires GE to burn coal that will result in emissions not to exceed 4 pounds of SO_2 per million BTU as an interim measure on or before April 8, 1979. The order then requires final compliance with the applicable Pennsylvania State Implementation Plan (SIP) on or before July 1, 1979. GE plans to achieve compliance by burning coal with a sulfur content low enough to meet the SIP requirement. However, GE plans to shut down boiler #2 by June 30, 1979 in order to install additional equipment which may be needed to properly burn the lower sulfur coal. Since shutdown of boiler #2 is part of the compliance program, GE is required and has agreed to post a bond pursuant to section 113(d)(3) of the Act.

GE has consented to the terms of the order and will operate in full compliance with the applicable SIP by July 1, 1979.

The proposed order satisfies the applicable requirements of section 113(d) of the Clean Air act (the Act). If the order is issued, source compliance with its terms would preclude further EPA enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen provisions of the Act (section 304) would be similarly precluded. However, in the event final compliance is not achieved by July 1, 1979, source compliance with the order will not preclude assessment of any noncompliance penalties under Section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2)(B) or (C).

Comments received by the date specified above will be considered in determining whether EPA should issue the order. Testimony given at any public hearing concerning the order will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the order in 40 CFR Part 65.430.

(42 U.S.C. 7413, 7601.)

Dated: June 6, 1979.

Jack J. Schramm,

Regional Administrator, Region III.

1. The text of the order reads as follows:

U.S. Environmental Protection Agency

In the Matter of: General Electric Company, Erie Power Station, Erie, Erie County, Pennsylvania; Order No. III–79– ; CDS No. 39–3080–00009.

This Order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended (the Act), 42 U.S.C. 7413(d), and contains a schedule for compliance, interim requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the Commonwealth of Pennsylvania and to Erie County, Pennsylvania, of intent to issue this Order have been provided pursuant to section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1).

Findings

On November 14, 1978, the United States Environmental Protection Agency (EPA) issued a Notice of Violation, pursuant to Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), to General Electric Company, upon a finding that the Company's Erie Power Station boilers were operating in violation of section 123.22(a)(2)(ii), Article III, Subpart C, Part I, Title 25 of the Pennsylvania Code, Rules and Regulations of the Department of Environmental Resources, a part of the applicable Pennsylvania Implementation Plan as defined in Section 110(d) of the Act, 42 U.S.C. 7410(d). This finding was based upon information submitted by the Company on March 17, 1978.

Said violation has extended beyond the thirtieth day after issuance of the above-referenced Notion of Violation. This finding is based upon information submitted by the Company on January 18, 1979.

Order

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this Order is expeditious as practicable, and that the terms of this Order comply with Section 113(d) of the Act, 42 U.S.C. 7413(d). Therefore, it is hereby ordered:

I

That the General Electric Company's Erie Power Station shall comply with the Pennsylvania Implementation Plan regulations on or before July 1, 1979.

II

That the General Electric Erie Power Station shall comply with the following interim requirements, determined to be the best reasonable and practicable interim measures of emission reduction (taking into account the requirement for which compliance is ordered in section I, above) and determined to be necessary to avoid an imminent and substantial endangerment to the health of persons and to assure compliance with section 123.22(a)(2)(ii) of Article III insofar as the Erie Power Station is able to comply during the period this Order is in effect:

A. That the General Electric Company Erie Power Station burn coal that results in emissions not to exceed 4 pounds of SO_2 per million B.T.U. on a 7-day average commencing on or before April 8, 1979.

B. That the General Electric Company Erie Power Station obtain on or before June 15, 1979 a reliable source of coal that will allow the Erie Power Station to comply with the requirements of § 123.22(a)(2)(ii).

C. That the General Electric Company Erie Power Station shall shut down the number 2 boiler on or before June 30, 1979 and shall not start it up again unless it is operated in compliance with the applicable Pennsylvania implementation plan. Within two weeks of the effective date of this Order, General Electric Company shall post a bond in an amount and form satisfactory to the EPA which bond shall be forfeited should General Electric Company fail to comply with this provision II.C.

III

That the General Electric Erie Power Station is not relieved by this Order from compliance with any requirements imposed by the applicable State Implementation Plan, EPA, and the courts pursuant to section 303 of the Act, 42 U.S.C. 7603, during any period of imminent and substantial endangerment to the health of persons.

IV

That until July 1, 1979 the General Electric Erie Power Station shall comply with the following monitoring and reporting requirements on or before the dates specified below:

A. A record of weekly coal consumption shall be maintained for the power station. The record shall include the characteristics of the coal burned and the amount of SO_2 emitted during the period of the record. A weekly report of the above analysis of sampling shall be submitted by mail commencing April 18, 1979.

B. A report specifying date of final compliance for each boiler unit, when compliance has been achieved shall be submitted within 10 days of attainment.

C. If delay is anticipated in meeting any requirement of this Order, General Electric shall immediately notify EPA in writing of the anticipated delay, reasons therefor and steps

being taken to remedy the situation. Notification to EPA of any anticipated delay does not excuse the delay.

D. All submittals and notifications to EPA pursuant to this Order shall be made to Patrick M. McManus (3EN12), U.S. Environmental Protection Agency, Region III, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

V

Nothing herein shall affect the responsibility of General Electric Power Station, to comply with State or local regulations.

VI

General Electric Company is hereby notified that its failure to achieve final compliance by July 1, 1979 at the Erie Power Station will result in a requirement to pay a noncompliance penalty under section 120 of the Act, 42 U.S.C. 7420 and the regulations promulgated thereunder. In the event of such failure, General Electric Company will be formally notified, pursuant to section 120(b)(3) of the Act, 42 U.S.C. 7420(b)(3), and any regulations promulgated thereunder, of its noncompliance.

VII

This Order may be terminated, under appropriate circumstances, in accordance with section 113(d)(8) of the Act, 42 U.S.C. 7413(d)(8) and the regulations promulgated thereunder.

VIII

Violations of any requirement of this Order shall result in one or more of the following actions:

A. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of section 123.22(a)(2)(ii) of Article III in accordance with the following paragraph.

B. Enforcement of such requirement pursuant to sections 113 (a), (b), or (c) of the Act, 42 U.S.C. 7413 (a), (b), or (c) and the regulations promulgated thereunder, including possible judicial action for an injunction, penalties and in appropriate cases, criminal prosecution.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act, 42 U.S.C. 7420 and the regulations promulgated thereunder.

IX

This Order is effective immediately July 2, 1979.

Date: ————————.

————————————.

Environmental Protection Agency.

Stipulation and Consent

General Electric has reviewed this Order and believes it to be a reasonable means by which the Erie Power Station can achieve compliance with section 123.22(a)(2)(ii) of Article III, Subpart C, Part I, Title 25, Rules and Regulations of the Pennsylvania Department of Environmental Resources, the applicable part of the Pennsylvania State Implementation Plan.

General Electric stipulates to the correctness of all facts stated above and hereby consents to the requirements and terms of this Order.

Dated: April 4, 1979.

Robert R. Motsinger,

Authorized Representative of the General Electric Company, Erie Power Station.

[FR Doc. 79-20282 Filed 6-29-79; 8:45 am]

BILLING CODE 6569-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[45 CFR Part 71]

Child Day Care Regulations; Public Meetings

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of public meetings for Child Day Care Regulations.

SUMMARY: The Department of Health, Education, and Welfare will conduct public meetings to review proposed HEW child day care regulations. (44 FR 34754, June 15, 1979) The proposed regulations would apply to all HEW assisted day care services provided to children outside their homes except the Headstart program. The proposed regulations contain requirements for State agencies administering out-of-home day care services operators. They would specify the type of day care services HEW wished to purchase for children served with its funds. The oral and written comments received at the meetings will be considered in the drafting of the final regulations.

DATES: Public meetings will be held in 10 cities and the District of Columbia. See Supplementary Information section for the address of each meeting.

FOR FURTHER INFORMATION CONTACT: See Supplementary Information section for the person to contact in each region and in Washington, D.C.

SUPPLEMENTARY INFORMATION: The schedule of meetings is set forth below. The date and location of each meeting is provided in addition to the name and address of the person to contact for further information.

Region I: July 19, 1979, Federal Reserve Bank, First Floor Auditorium, 600 Atlantic Avenue, Boston, MA 02103. Contact: Ms. Tina Burrell, Administration for Children, Youth and Families, John F. Kennedy Federal Building, Room 2000, Government Center, Boston, MA 02203. Telephone (617) 223-6450.

Region II: July 25, 1979, New York University Medical Center, 550 First Avenue (32nd Street), New York, NY 10016. Contact: Ms. Gloria Sanger, Administration for Public Service, Federal Building, Room 4100, 26 Federal Plaza, New York, NY 10007. Telephone (212) 264-4626.

Region III: July 11, 1979, Social Security Payment Center, First Floor Auditorium, 300 Spring Garden Street, Philadelphia, PA 19123. Contact: Mr. Donald Barrow, Administration for Children, Youth and Families, P.O. Box 13716, 3535 Market Street, Phildelphia, PA 19101. Telephone (215) 596-6761.

Region IV: July 19, 1979, City Council Chambers, City Hall, Mid-America Mall, 135 N. Main Street, Memphis, TN 38103. Contact: Mr. James K. Vaughn, Administration for Children, Youth and Families, 101 Marietta Tower, N.W., No. 903, Atlanta, GA 30323. Telephone (404) 221-2128.

Region V: July 23, 1979, Social Security Administration, Great Lakes Program Service Center, First Floor Auditorium, 600 West Madison, Chicago, IL 60606. Contact: Ms. Thelma Thompson, Administration for Children, Youth and Families, 13th Floor, 300 South Wacker Drive, Chicago, IL 60606. Telephone (312) 353-8065.

Region VI: July 23, 1979, Hemisphere Plaza, Mission Room, Corner Market and Alamo, San Antonio, TX 78209. Contact: Mr. Pat Murphy, Administration for Children, Youth and Families, 1200 Main Tower Building, Dallas, TX 75205. Telephone (214) 767-6596.

Region VII: July 23, 1979, Chase Park Plaza, 212 N. Kingshighway Boulevard, St. Louis, MO 63108. Contact: Mr. Alva Byars, Administration for Public Services, 601 East 12th Street, Kansas City, MO 64106. Telephone (816) 374-3667.

Region VIII: July 17, 1979, Fitzsimons Army Medical Center, Quade Conference Center, Peoria and Montview Boulevard, Aurora, CO 80010. Contact: Ms. Oneida Little, Administration for Public Services, Federal Office Building, Room 9017, 19th and Stout Streets, Denver, CO 80294. Telephone (303) 837-2141.

Region IX: July 27, 1979, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90001. Contact: Ms. Beverly Wood, Administration for Public Services, DHEW Regional Office, Room 450, 50 United Nations Plaza, San Francisco, CA 94102. Telephone (415) 556-7800.

Region X: July 26, 1979, New Federal Building, South Auditorium, 915 2nd Avenue, Seattle, WA 98174 (enter 1st Avenue level for evening session). Contact: Ms. Enid Welling, Administration for Public Services or Ms. Margaret Sanstad, Administration for Children, Youth and Families, Arcade Plaza Building, 1321 Second Avenue, Mail Stop 819 or 811, Seattle, WA 98101. Telephone (206) 442-0526 or (206) 442-0838.

National Meeting: September 12, 1979, Auditorium, HEW North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201. Contact: Ms. Nina Sazer, Chief, Public Participation Task Force, Office of the General Counsel, Room 716E, 200 Independence Avenue, S.W., Washington, D.C. 20201. Telephone (202) 472-7461.

These meetings are being held to solicit the views and comments of individuals and organizations with respect to issues raised by the proposed day care regulations. Requests to participate in the meetings should be made in writing to the above addresses

and should include the name, address and telephone number of the participant and organization represented, if any, as well as the issues each participant would like to address. Each participant will have the opportunity to submit a written statement and other data for the record. In the event that time does not permit all interested persons to make oral presentations, persons will be selected to assure that all points of view are fairly represented. The meetings will be conducted in an informal manner.

In addition, individuals or organizations wishing to sponsor a State or local meeting to review the proposed regulations may write to the above addresses to request information which will assist them in planning meetings.

Persons who are unable to attend the meetings may submit statements in writing to: Sylvester Ligsukis, Director, Day Care Task Force, U.S. Department of HEW, Office of the General Counsel, Room 716E, 200 Independence Avenue, S.W., Washington, D.C. 20201. Telephone (202) 245-6734.

Dated: June 26, 1979.

Inez Smith Reid,

Deputy General Counsel for Regulation Review.

[FR Doc. 79-20416 Filed 6-28-79; 8:45 am]

BILLING CODE 4110-12-M

Social Security Administration

[45 CFR Part 233]

Factors Specific to Aid to Families With Dependent Children; Continued Absence of the Parent From the Home

AGENCY: Social Security Administration, HEW.

ACTION: Propsed rule.

SUMMARY: The proposed regulations, which will be mandatory for States, provide that a child is considered deprived of parental support or care—an eligibility factor for Aid to Families with Dependent Children—by reason of continued absence of a parent from the home when: (1) a parent has been convicted of an offense and is under sentence of a court; (2) the sentence requires the parent to perform unpaid public work or unpaid community service druing working hours and the parent is performing the unpaid work or service; and (3) the parent is permitted by the court to live at home while serving the sentence because of crowded jail conditions or for other reasons in the public interest.

The proposed rule broadens the current interpretation of the statutory provision, "continued absence from the home," to include situations in which the parent is a convicted offender serving a sentence in the circumstances described. The child is deprived because the parent is unable to provide support through paid employment. This broadened interpretation corrects an inequity: the child of an incarcerated prisoner can receive AFDC; but the child of a convicted offender who performs unpaid public work or community service during the workday and is permitted to live at home while serving the sentence, and who is equally unable to support the family cannot receive AFDC.

DATE: We will consider your comments if you send them on or before August 31, 1979.

ADDRESSES: Send your written comments to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203.

Copies of all comments we receive may be seen at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Ms. Joyce Fernandez, Office of Family Assistance, Social Security Administration, 330 C Street, S.W., Washington, D.C. 20202; telephone (202) 245-0982.

SUPPLEMENTARY INFORMATION:

Background

Section 406(a) of the Social Security Act defines a "dependent child" as a needy child who has been deprived of parental support or care by reason of the dealth, continued absence from the home, or physical or mental incapacity of a parent. (Other factors not relevant to this discussion are also involved.)

We have until now interpreted "continued absence from the home," where a convicted offender is involved, to mean that the parent must be physically removed from the home. This policy, combined with modern sentencing trends in a number of States, has resulted in an inequity. It is inequitable to grant AFDC to families with a parent in prison, but to deny AFDC to families with a parent who, although permitted to live at home, must serve a court-imposed sentence at unpaid work which deprives the children of economic support. In both situations children are drprived of parental support because a court-imposed sentence prevents the parent from working at a paid job.

Some States permit an offender who is serving a sentence to live at home because the jails and prisons are crowded, or for other reasons in the public interest. In Mississippi, for example, the court may require a convicted offender to do unpaid public work (in a hospital, on a street crew, on a machine maintenance crew, or the like) during a full workweek, but permit the offender to live at home. In California, eight courts in the Oakland-Piedmont area sentence selected offenders to serve their time as volunteers of community organizations; other California sentences may require unpaid public work or unpaid community service, all with permission to live at home. Nebraska permits intermittent imprisonment (with the offender's consent). Wisconsin has a statute allowing those imprisoned for contempt to serve their sentences intermittently.

In all of these cases, although the convicted offender lives at home, the child is deprived of support because the parent cannot seek or accept a job while serving a sentence at unpaid work.

Convicted Offender May Be an Essential Person

In States which provide assistance to "essential persons," as permitted under 45 CFR 233.20(a)(2)(vi), the parent living at home but serving a court-imposed sentence may be considerd an essential person and the parent's needs may be recognized in determining the amount of the assistance payment.

Difference Between Current Regulations and Proposed Regulations

Under the current regulations, 45 CFR § 233.90(c)(1)(iii), the statutory phrase, "continued absence from the home," would not include a parent who was a convicted offender under sentence but not incarcerated. The proposed regulations broaden the interpretation to include situations in which the parent is a convicted offender who is permitted to live at home while serving a court-imposed sentence to perform unpaid public work or unpaid comunity service during the workday. This change in policy will treat needy children of convicted offenders equally under the AFDC program.

Section 233.90 is scheduled for recodification some months from now; it will be completely rewritten for increased clarity under HEW's Operation Common Sense.

(Secs. 406 and 1102 of the Social Security Act, as amended, 49 Stat. 629 as amended, 49 Stat. 647 as amended (42 U.S.C. 606 and 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.808, Assistance Payments—Maintenance Assistance (State Aid).)

Dated: May 29, 1979.

Stanford G. Ross,

Commissioner of Social Security.

Approved: June 23, 1979.

Hale Champion,

Acting Secretary of Health, Education, and Welfare.

In part 233, Chapter II, Title 45 of the Code of Federal Regulations, § 233.90(c)(1)(iii) is amended to read as follows:

§ 233.90 Factors specific to AFDC.

* * * * *

(c) *Federal financial participation.*

(1) * * *

(iii) *Continued absence of the parent from the home.* Continued absence of the parent from the home constitutes the reason for deprivation of parental support or care when the parent is out of the home, the nature of the absence is such as either to interrupt or to terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of the absence precludes counting on the parent's performance of the function of planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and may have left only recently or some time previously. A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

* * * * *

[FR Doc. 79-20418 Filed 6-29-79; 8:45 am]

BILLING CODE 4010-07-M

ACTION

[45 CFR Ch XII]

Semiannual Agenda of Significant Regulations

AGENCY: ACTION.

ACTION: Semiannual Agenda of Significant Regulations.

SUMMARY: In accordance with Executive Order 12044, Improving Government Regulations, ACTION is publishing its semiannual agenda of significant regulations (including guidelines) under development or review. The purpose of this agenda is to help the public become aware of the agency's review of existing regulations, the development of new regulations, and to enable the public to more effectively contribute to that review and development.

DATES: Comments on regulations scheduled for review or development must be received before the target dates included in the agenda.

ADDRESSES: Send comments to the program office initiating the review or development of each regulation. The mailing address for each initiating office of ACTION is 806 Connecticut Avenue, N.W., Washington, DC 20525.

FOR FURTHER INFORMATION CONTACT: For further information about this agenda, contact Randi J. Greenwald, Assistant General Counsel, ACTION, Room M-607, 806 Connecticut Avenue, N.W., Washington, DC 20525, 202-254-7974. For more specific information about particular regulations listed in the agenda, contact the individual named in the agenda.

SUPPLEMENTARY INFORMATION: Explanation of Information on the Agenda. The agenda includes the following information: a brief description of the proposed or existing regulation; the need and legal basis for the action being taken; a target date for publication of a draft regulation in the **Federal Register;** the name and telephone number of an agency official familiar with the regulation.

ACTION's last agenda, which appeared in the January 9, 1979 **Federal Register,** contained two (2) items. The Minigrant application guidelines review initiated by the Office of Voluntary Citizen Participation has been postponed.. The VISTA Competitive National Grant guidelines were published as final guidelines on March 6, 1979.

The publication of this agenda does not impose any binding obligation on ACTION with respect to any specific item on the agenda.

Issued in Washington, DC, on June 26, 1979.

Sam Brown,

Director, ACTION.

Regulation	Initiating office	Need and legal basis	Contact	Target date
1. Development of guidelines for Urban Crime Prevention Program Grants.	ACTION Office of Domestic Operations and LEAA Office of Community Anti-Crime Programs.	Omnibus Crime Control and Safe Streets Act of 1968, as amended (Pub. L. 90-351); President's Urban Policy.	Phil McLaurin, 254-3142	July 1979.
2. Revision of Older American Volunteer Programs regulations and handbooks:				
a. Retired Senior Volunteer Program (RSVP)	a. RSVP	Clarify regulations and handbook in light of amendments to Title II of Domestic Volunteer Service Act of 1973, National Older American Volunteer Programs.	a. Alfred Larsen, 254-8124	a. December 1979.
b. Foster Grandparent Program (FGP)	b. FGP		b. Jack Kenyon, 254-7605	b. December 1979.
c. Senior Companion	c. SCP		c. Suzanne Fahy, 254-7605	c. December 1979.
3. Revision of guidelines for State Office of Citizen Participation Program grants.	Office of Voluntary Citizen Participation (OVCP).	Introduce new requirements for grants to State Governors' offices.	Peter Bender, 254-3545	July 1979.
4. Revise guidelines for competitive demonstration grants of Office of Policy and Planning.	Office of Policy and Planning (OPP).	Prior guidelines too general and too burdensome on applicants.	Herbert Tyson, 254-6861	January 1980.

[FR Doc. 79-20150 Filed 6-29-79; 8:45 am]

BILLING CODE 6050-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[48 CFR Parts 3, 30, 31, and 50]

Draft Federal Acquisition Regulation; Availability and Request for Comment

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability and request for comment on draft Federal Acquisition Regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment segments of the draft Federal Acquisition Regulation (FAR) regarding Ethics, Cost Accounting Standards, Contract Cost Principles and Procedures, and Extraordinary Contractual Actions. Availability of additional segments for comment will be announced on later dates. The regulation is being developed to replace the current system of procurement regulations.

DATE: Comments must be received on or before August 31, 1979.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William J. Maraist, Deputy Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, NW., Room 9025, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Strat Valakis (202) 395–3300.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce 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 regualtions will summarize the section or part available for review and describe any new policies therein.

The following subparts of the draft Federal Acquisition Regulation are available upon request for public and Government agency review and comment.

PART 3—ETHICS

Subpart 3.1—Standards of Conduct.

3.104 Officials Not to Benefit. This subpart implements 18 U.S.C. 431 which makes it a criminal offense for a member or delegate to Congress or resident commissioner to be admitted to any share or part of a Government contract. The required contract clause is also included.

PART 30—COST ACCOUNTING STANDARDS

This part prescribes policies and procedures for applying the Cost Accounting Standards Board (CASB) standards and regulations to negotiated national defense and negotiated nondefense contracts and subcontracts. It does not apply to formally advertised contracts or to any contract with a small business concern or foreign government.

30.1 General. This subpart extends Cost Accounting Standards to certain nondefense contractors and subcontractors as a matter of policy. It contains ordering information for CASB standards and regulations since they will not be reprinted in the FAR.

30.2 Disclosure Requirements. This subpart prescribes requirements for submission of Disclosure Statements. A disclosure statement is a written description of a contractor's cost accounting rules and procedures in a format prescribed by the CASB. It includes policies and procedures regarding amendments and revisions, privileged and confidential information, and reviews.

30.3 CAS Contract Requirements. This subpart prescribes the rules for determining whether a proposed contract or subcontract is exempt from CAS. It also describes and contains rules for determining whether full or modified coverage applies. It also contains requirements for solicitation provisions and contract clauses and waiver procedures.

30.4 CAS Administration. This subpart contains policies and procedures for CAS administration including changes to disclosed or established cost accounting practices, equitable adjustment for new standards, and noncompliance with CAS requirements. CAS clauses in Part 52 of the FAR are included here for review.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.2 Contracts With Commercial Organizations. This subpart contains contract cost principles and procedures applicable to contracts with commercial organizations. It covers composition of total cost; determinations of allowability, reasonableness and allocability; credits; and accounting for unallowable costs. This subpart deals with direct as well as indirect costs and contains a list of selected costs and their allowability.

31.5 Contracts For Industrial Facilities. This subpart contains policies and procedures peculiar to contracts for industrial facilities. Except as provided in this subpart, cost principles and procedures relative to contracts for industrial facilities are the same as in Part 31.

PART 50—EXTRAORDINARY CONTRACTUAL ACTIONS

This part establishes regulations for entering into, amending, or modifying contracts in order to facilitate the national defense under the extraordinary emergency authority granted by Pub. L. 85–804 (50 U.S.C. 1431–1435) and Executive Order 10789 dated November 14, 1958.

Dated: June 26, 1979.

William W. Thybony,

Assistant Administrator for Regulations.

[FR Doc. 79-20287 Filed 6-29-79; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 222]

[Docket No. RSGC-2, Notice 2]

Proposed Requirement for Display of Alerting Lights by Locomotives at Public Grade Crossings

Correction

In FR Doc. 79–18998, appearing at page 34982 in the issue for Monday, June 18, 1979, make the following corrections:

1. On page 34984, in the fourth line of the first column, correct "(NTIS No. FB–244–532)" to read "(NTSI No. PB–244–532)".

2. On page 34985, in the last line of the second paragraph of the first column, change the word "free" to read "tree".

3. On page 34987, in the eighth line, in the first paragraph of the first column, change "±" to read "±5".

4. Also on page 34987, in the next to the last line of the second paragraph, change the word "pasing" to read "passing".

5. On page 34992, in the first line of § 222.13(d), change "±" to read "±5".

BILLING CODE 1505-01-M

[49 CFR Parts 229 and 230]

[Docket No. LI-6, Notice No. 2]

Locomotive Inspection; Miscellaneous Proposed Revisions

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Extension of Comment Period and Change of Hearing Date and Location.

SUMMARY: The purpose of this notice is to extend the comment period for the proposed revision of the rules pertaining to railroad locomotive inspection and to reschedule the time and place of the public hearing that FRA will conduct as part of the rulemaking process (44 FR 29604). The effect of this action will be to extend the final day of the comment period from July 23 to September 28, 1979. This action will also change the date and place of the public hearing from 10 a.m., July 10, 1979, in room 3201 of the Trans Point Building to 10 a.m. September 12 and 13, 1979, in room 2230 of the Nassif Building. The action is taken in response to a request from the Association of American Railroads (AAR).

DATES: (1) Written Comments: Written comments must be received before September 28, 1979. Comments received after that date will be considered so far as possible without incurring additional expense or delay. (2) Public Hearing: A public hearing will be held at 10 a.m. on September 12 and 13, 1979. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before September 5, 1979, by phone or by mail.

ADDRESSES: (1) Written Comments: Written comments should identify the docket number and the notice number (Docket No. LI-6, Notice No. 1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration (Trans Point Building), 2100 Second Street, S.W., Washington, D.C. 20590. (2) Public Hearing: A public hearing will be held in room 2230 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Persons desiring to make oral statements at the hearing should notify the Docket Clerk by telephone (202-426-8836) or by writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration (Trans Point Building), 2100 Second Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Principal Program Person: Rolf Mowatt-Larssen, Office of Standards and Procedures, Federal Railroad Administration, Washington, D.C. 20590. Telephone 202-426-0924. Principal Attorney: Michael E. Chase, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: On May 21, 1979, FRA published in the **Federal Register** an NPRM proposing a revision of the rules pertaining to railroad locomotive inspection (44 FR 29604). That notice included an announcement that a public hearing on the proposed revision would be held on July 10, 1979. The notice also indicated that written comments must be received before July 23, 1979.

FRA has recently received a communication from the AAR requesting that the hearing be postponed and the comment period extended for at least 60 days. This request was made on the basis that additional time is needed to adequately review the proposed regulation.

FRA wishes to encourage thoughtful and thorough participation by all interested persons and organizations in the hearing on the proposed revision of the locomotive inspection rules. Therefore, the hearing date and the end of the comment period have been extended.

(Secs. 1, 2, 5, 9, 36 Stat. 913, 914 (45 U.S.C. 22, 23, 28, 34); Sec. 6(e) and (f), 80 Stat. 939, 940 (49 U.S.C. 1655(e) and (f)).)

Issued in Washington, D.C. on June 27, 1979.

John M. Sullivan,

Administrator.

[FR Doc. 79-20343 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-06-M

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. MC-128]

Revenue Need Standards in Motor Carrier General Increase Proceedings

Decided: June 19, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to consider new standards for measuring the revenue needs of regular route motor common carriers of general freight. These new standards are to be applied in the Commission's consideration of general rate increase proposals filed from time to time on behalf of general freight carrier members of the major territorial motor carrier rate bureaus (i.e., those subject to the regulations set forth in 49 CFR 1104—Procedures to be Followed in Motor Carrier Revenue Proceedings).

In addition to soliciting comments from interested parties, the Commission will evaluate the analysis of a contractor who will be retained to study certain questions relating to the carriers' revenue needs. The record developed during the Commission's investigation in Docket No. M-29772, *General Increase, S.M.C.R.C., April, 1978,* will be incorporated into this rulemaking.

We are now in the process of procuring a contractor to assist us in this inquiry. Until the details of the contract are established, we will be unable to project accurately an approximate completion date. When a contractor has been selected, we will publish a procedural schedule indicating tentative completion dates of each of the various steps involved in our determination.

ADDRESS: All written submissions shall be sent to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Janice M. Rosenak (202-275-7693) or Harvey Gobetz (202-275-7656).

SUPPLEMENTARY INFORMATION: In Investigation and Suspension Docket No. M-29772, *General Increase, S.M.C.R.C., April, 1978,* decision served November 27, 1978, (hereinafter "Southern") the Commission made certain general findings and conclusions regarding standards to be applied in motor carrier general increase proceedings. Those findings and conclusions were based on the Commission's investigation in the *Southern* proceeding, which had been designated the lead proceeding in the context of 10 other motor carrier general increase proceedings which were initiated in April, 1978.

The major issues investigated in the *Southern* case related to appropriate standards for measuring the carriers' need for additional revenue. More specifically, the Commission evaluated evidence on an appropriate rate of return for the carriers and the appropriate methodology for presenting evidence of increased costs to justify a general increase in rates, including the proper treatment of (1) productivity gains and losses, (2) the Wholesale Price Index-Industrial Commodities and (3) non-union labor cost increases.

In its decision of November 27, 1978, the Commission made the following findings, based solely on the record developed in the *Southern* proceeding:

(1) The after-taxes return on shareholders equity, less intangibles, is the most appropriate financial ratio for determining revenue need in motor carrier general increase proceedings.

(2) The motor common carriers of general freight should be permitted the opportunity to achieve a return no greater than the return being earned by all manufacturing industries.

(3) Experienced, proveable cost increases incurred by the carriers should be passed on to shippers in the form of increased rates only to the extent that increased revenues are needed to permit the carriers to earn an adequate rate of return.

(4) With respect to evidence of increased costs, the Commission announced that:

(a) Known wage increases to union employees cannot be imputed to non-union employees;

(b) Use of the Bureau of Labor statistics on productivity would be permitted in the absence of the carriers' own evidence on productivity gains or losses; and

(c) Use of the Wholesale Price Index-Industrial Commodities to update expenses was to be discontinued.

Following issuance of the Commission's decision in the *Southern* proceeding on November 27, 1978, petitions for administrative review were filed by various parties. In those petitions, the major findings and conclusions were challenged. Following its consideration of those petitions, the Commission divided evenly on whether to affirm the prior conclusions. But a majority did vote to initiate a rulemaking proceeding, separate from the *Southern* case, on the subject of cost justification and motor carrier revenue need standards. A majority also voted to hold the *Southern* proceeding and related cases in abeyance pending completion of the rulemaking.

This rulemaking responds to that vote. Interested persons are advised that, after considering the comments solicited here, we may promulgate one or more rules relating to the issues set forth below. Accordingly, the Commission seeks the comments of interested parties on the following issues:

Should the Commission, in evaluating general increase proposals, employ a standard that would effectively establish an upper limit on the profitability of the group of carriers proposing the increase? If so, what should that limit be? Moreover, should any exceptions to that limit be allowed? If there should be a limit, please comment on the following related matters:

(1) Should such a ceiling be established in terms of a standard rate of return (on investment, equity, or other basis)?

If so,

(a) What rate of return is needed to attract capital sufficient to enable carriers, under honest, efficient, and economical management, to provide adequate and efficient transportation service to the public?

(b) In terms of risk, is there any industry or group of industries to which a particular group of carriers proposing a general increase can be meaningfully compared and, if so, is there some readily available index or indices which would provide the Commission with a reliable and easily applicable basis for comparison in terms of accounting treatment?

(c) Should a standard rate of return be stated in terms of the return on investment, return on equity, operating ratio, or some other financial ratio or combination of ratios?

(2) Assuming that a particular standard, or some combination of standards, should be used in general rate increase proceedings, how should that measure of profitability be translated, or given effect, in determining how much of a rate increse should be granted on so-called "issue traffic" (i.e., that traffic the rates and charges for which are directly affected by the rate proposal)? Further, how and to what extent should the profitability of the component parts of issue traffic be recognized? This issue recognizes the existence of "differential charging" and that specific segments of traffic (whether it be by weight bracket, classification, distance, cost or any other determinative) do not make the *same* contribution to the carriers' system-wide profitability.

(3) If a rate of return (or cost of capital) analysis is ill suited to the motor carrier industry, is there some other methodology which the Commission could feasibly apply to establish a profitability standard?

(4) What is the probable quantitative impact on the motor carriers and the public they serve of placing an upper limit on motor carrier revenues?

In order to evaluate the probable impacts, it seems desirable and appropriate that the major bureaus submit the following:

(a) Appendix B data for the MC–82 carriers for the year 1978, and for the twelve (12) months ending March 31, 1979.

(b) Similar information, to the extent available, for class II carriers not included in (a) above.

(c) Complete description of methodology used to develop their estimates of impacts.

(d) Description of the impacts of the current system of standards, e.g., operating ratios, on the MC–82 carriers in terms of mergers, business failures, financial ratios, etc., over the years through 1969 through 1978.

The Commission recognizes that member carriers of a particular rate bureau are not a homogeneous industry group. A major problem has been how to measure the earnings of a group of carriers characterized by great diversity in size, cost structure, and service. Nevertheless, the current system of collective, territorial ratemaking by motor carriers necessarily requires the Commission, in the context of a general increase proposal, to look at a frame of carriers which is representative of the larger carrier group operating in a particular territory in order to make some determination as to the reasonableness of the rate increase proposed by the group as a whole. While the profitability questions posed here are, to some extent, related to the determination of how that frame is to be constructed, issues concerning the fairness of constructing the frame are being considered in the context of Ex Parte No. MC–82, *New Procedures in Motor Carrier Revenue Proceedings*, and should not be addressed in this rulemaking.** Whatever final rules regarding profitability and revenue need standards which may ultimately result from this rulemaking will be applied to the frames established through *MC–82* procedures. All other issues not specifically addressed here and raised in the *Southern* decision will, to the extent practicable, be addressed in Ex Parte No. MC–82.

The contractor who will be retained in this matter will be directed to analyze the following issues:

(1) What financial measures are most useful in determining the financial needs of the motor carrier industry? How can these measures be used individually or collectively in determining the reasonableness of general rate increases for general commodities carriers?

(2) Can the motor carrier industry appropriately be compared to other industries for the purpose of evaluating a suitable rate of return? If so, which other industries are comparable and why? To what extent is risk a factor affecting the carriers' cost of capital or rate of return needs? How can risk best be measured?

Deadlines for the submission of statements of intent to participate and written representations appear in the heading of this notice. For administrative convenience, parties should indicate in the statement of intent whether they intend to participate actively, in which case they will be placed on the service list, or whether they merely wish to receive copies of reports and orders of the Commission. Parties actively participating in this proceeding by submitting written representations must service copies of their representations on all parties on the service list. Those participants who were parties in Docket No. M–29772 are

** An informal conference with Commission staff concerning these questions will be held at the I.C.C. Building, 12th & Constitution Avenue NW., Washington, D.C., beginning July 23, 1979 at 9:00 a.m.

requested to submit comments which contain new or supplementary information to that previously submitted.

An original and fifteen copies of written representations must be filed with the Commission. An original and one copy of the statements of intent to participate must also be filed. A service list will be sent to all active parties in time to enable them to comply with the filing deadline.

This rulemaking is instituted pursuant to 49 U.S.C. 10321 and 5 U.S.C. 553, 559.

By the Commission. Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-20283 Filed 6-29-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

Public Hearings for Proposed Endangered Southwestern Fish and Cacti

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Southwest Regional Office of the U.S. Fish and Wildlife Service gives notice that it is reopening the public comment period for listing one proposed endangered fish (43 FR 36117) and seventeen taxa of proposed endangered cacti (41 FR 24523).

DATES: Comments on the final listing of the following species as endangered will be received for consideration from July 2, 1979, through July 23, 1979:

Arizona

1. *Echinocactus horizonthalonius* var. *nicholii*
2. *Echinocereus triglochidiatus* var. *arizonicus*
3. *Pediocactus bradyi*
4. *Pediocactus sileri*
5. *Pediocactus peeblesianus* var. *peeblesianus*

Texas

6. *Ancistrocactus tobuschii*
7. *Coryphantha minima*
8. *Coryphantha ramillosa*
9. *Echinocereus lloydii*
10. *Echinocereus reichenbachii* var. *albertii*
11. *Echinocereus viridiflorus* var. *davisii*
12. *Neolloydia mariposensis*
13. *Gambusia amistadensis* (Goodenough Spring gambusia)

New Mexico

14. *Coryphantha sneedii* var. *sneedii*
15. *Coryphantha sneedii* var. *leei*
16. *Echinocereus kuenzleri* ("*E. hempelii*" of authors)
17. *Pediocactus knowltonii*
18. *Sclerocactus mesae-verdae*

ADDRESSES: Public hearings will be held to allow the public a more active role in the listing process prior to the submission of the final Environmental Assessments. These hearings will be held at the following places and times:

Austin, Texas: July 9 at 7:00 pm (Texas species only)—Conference Room, Texas Department of Mental Health, Mental Retardation, 909 West 45th Street.

Phoenix, Arizona: July 11 at 7:00 pm (Arizona species only)—Auditorium, Maricopa Office of the Board of Supervisors, 205 West Jefferson.

Albuquerque, New Mexico: July 12 at 7:30 pm (New Mexico species only)—Parlor A, Albuquerque Hilton Inn, 1901 University Blvd., N.E.

Oral presentations will be limited to one-quarter hour or less. In addition, the Hearing Officer may further limit the number and length of the statements depending upon the number of individuals in attendance who indicate a desire to make oral comments. Written comments will also be accepted at each hearing. Remarks in writing may also be submitted to the Regional Director during the period July 2–23, 1979, and should be addressed to: Regional Director, Region 2, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Jack B. Woody, Endangered Species Specialist, Fish and Wildlife Service, Albuquerque, NM, (505) 766–2321.

Dated: June 26, 1979.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 79-20288 Filed 6-29-79; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 44, No. 128
Monday, July 2, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Meat Import Limitations; Third Quarterly Estimate

Public Law 88–482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agricluture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by Section 2(a) of the Act.

In accordance with the requirements of the Act, the following third quarterly estimates for 1979 are published.

1. The estimated aggregate quantity of such articles prescribed by Section 2(a) of the Act during the calendar year 1979 is 1,131.6 million pounds.

2. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1979 is 1,570.0 million pounds. This estimate is based upon a voluntary restraint program which has been negotiated by the Department of State with major supplying countries. Were it not for the restraint program, the estimate of imports in 1979 subject to the Act would have been higher.

Since the estimated quantity of imports continues to exceed 110 percent of the estimated quantity prescribed by Section 2(a) of the Act, limitations for the calendar year 1979 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), are required unless suspended by the President pursuant to Section 2(d) of the Act. Such limitations were imposed by Proclamation 4642 of February 26, 1979, but were simultaneously suspended.

Done at Washington, D.C. this 25th day of June 1979.

Bob Bergland,

Secretary.

[FR Doc. 79–20060 Filed 6–28–79; 8:45 am]

BILLING CODE 3410–10–M

Soil Conservation Service

Crooked Lake Bayou Watershed, Arkansas; Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Crooked Lake Bayou Watershed project, Mississippi County, Arkansas, effective on June 13, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83–566, 16 U.S.C. 1001–1008.)

Dated: June 22, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79–20352 Filed 6–29–79; 8:45 am]

BILLING CODE 3410–16–M

Eighteen Mile Creek Watershed, South Carolina; Intent Not To File an Environmental Impact Statement for Deauthorization of Federal Funding of the Eighteen Mile Creek Watershed

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for deauthorization of Federal funding of the Eighteen Mile Creek Watershed, Pickens and Anderson Counties, South Carolina.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. George E. Huey, State Conservationist, has determined that the preparation and review of environmetal impact statement is not needed for this action.

The project plan provided for land treatment for watershed protection, dams and channel work for flood prevention and municipal water storage for the town of Liberty.

The notice of infent to not prepare an environmental impact statement has been forwarded to the Environmental Protecion Agency.

The basic data developed during the environmental assessment is on file and may be reviewed by interested parties by contacting Mr. George E. Huey, State Conservationist, One Greystone West, 240 Stoneridge Drive, Columbia, South Carolina 29210, 803–765–5681.

An environmental impact appraisal has been prepared and sent to various Federal, State and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests at the above address.

No administrative action on the proposal will be taken on or before August 31, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83–566, 16 U.S.C. 1001–1008.)

Dated: June 22, 1979.

Joseph W. Hass,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79–20355 Filed 6–29–79; 8:45 am]

BILLING CODE 3410–16–M

Garrett Bridge Watershed, Arkansas; Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Garrett Bridge Watershed project, Lincoln County, Arkansas, effective on June 13, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83–566, 16 U.S.C. 1001–1008.)

Dated: June 22, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-20349 Filed 6-29-79; 8:45 am]

BILLING CODE 3410-16-M

Redfork Watershed, Arkansas; Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Redfork Watershed project, Desha County, Arkansas, effective on June 13, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: June 22, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-20350 Filed 6-29-79; 8:45 am]

BILLING CODE 3410-16-M

Richland Creek Watershed, South Dakota; Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Richland Creek Watershed project, Union County, South Dakota, effective on June 13, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: June 21, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-20354 Filed 6-29-79; 8:45 am]

BILLING CODE 3410-16-M

Upper Little Minnesota River Watershed, South Dakota; Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Upper Little Minnesota River Watershed project, Marshall and Roberts Counties, South Dakota, effective on June 13, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: June 21, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-20351 Filed 6-29-79; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 33712]

Tiger International-Seaboard World Airlines, Inc., Acquisition Case; Supplemental Prehearing Conference

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a supplemental prehearing conference in the above-entitled matter (44 FR 8321, February 9, 1979), will be held on July 3, 1979, at 9:30 a.m. (local time) in Hearing Room 1003 D, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned judge.

The purpose of such conference will be to discuss the scheduling of witnesses, outstanding motions and other procedural questions, so that the hearing in this matter may proceed beginning on July 9, 1979.

Dated at Washington, D.C., June 26, 1979.

John J. Mathias,

Administrative Law Judge.

[FR Doc. 79-20381 Filed 6-29-79; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Illinois Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00a and end at 2:00p, on July 16, 1979, 230 South Dearborn Street, Room 3280, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the committee chairperson or the Midwestern Regional Office of the commission, 230 South Dearborn Street, 32nd Floor, chicago, Illinois 60604.

The purpose of this meeting is to develop plans for housing project by the Housing Subcommittee.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., June 27, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-20380 Filed 6-29-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, July 17, 1979, at 1:30 p.m. in Room 3817, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975. On October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including, proposed revisions of any such multilateral controls. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of

equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The Subcommittee meeting agenda has five parts:

General Session

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Review of recent material on COMECON mini and micro computer technology.

(4) New business

Executive Session

(5) Discussion of matters properly classified under Executive Order 11652 and 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public; a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, P.L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any Subcommittees thereof, was published in the Federal Register on September 14, 1978 (43 FR 41073).

Copies of the minutes of the open portions of the meeting will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: June 27, 1979.

Lawrence J. Brady,

Deputy Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-20397 Filed 6-29-79; 8:45 am]

BILLING CODE 3510-25-M

Department of Agriculture et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before July 23, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, at 666-11th Street, NW (Room 735), Washington, D.C.

Docket Number: 79-00233. Applicant: United States Department of Agriculture, SEA, AR, ASI, Reproduction Laboratory, Bldg. 177B, BARC-EAST, Beltsville, Maryland 20705. Article: Double Tilt Specimen Holder, Cooling Holder, Power Suply and PC Board for Direct Magnification Reading for Electron Microscope. Manufacturer: Hitachi, Perkin-Elmer, Japan. Intended use of article: The articles are accessories to an existing electron microscope which will be used to cytologically examine biological tissues from agricultural research experiments. These research problems, which pertain to food and fiber production, include cytological examinations of sperm transport and storage in farm animals, host-parasite interactions involving crop plants and parasitic nematodes, taxonomic studies, gaining a cytological explanation for mastitis in cattle, etc. Application received by Commissioner of Customs: May 7, 1979.

Docket Number: 79-00270. Applicant: University of Michigan-Mental Health Research Institute, 205 Washtenaw Pl. Ann Arbor, MI 48109. Article: Universal Camera, Two (2) each Flat-Film Magazine with 72 Flat-Film Frames and Shutter and Timer for Elmiskop 1. Manufacturer: Siemens AG, West Germany. Intended use of article: The foreign article is to be used to upgrade biological research capability of an electron microscope in the applicant's possession. Application received by Commissioner of Customs: May 7, 1979.

Docket Number: 79-00272. Applicant: University of South Carolina, Columbia, S.C. 29208. Article: JASCO Model MCD-1B Electromagnet with Power Supply and Support Bench. Manufacturer: JASCO, Japan. Intended use of article: The articles are intended to be used in conjunction with a circular dichroism spectrophotometer in order to measure magnetic circular dichroism spectra. A wide variety of samples will be examined using this technique including metallo-enzymes and synthetic metal-containing chromophores designed to structurally mimic the active sites of metallo-enzymes. The samples to be examined will all be solids dissolved in liquid solvents. The objectives of these studies will be to determine the electronic structure of these samples and therefore further our understanding of their role in nature. Application received by Commissioner of Customs: May 15, 1979.

Docket Number: 79-00273. Applicant: Naval Dental Research Institute, Naval Base, Bldg. 1-H, Great Lakes, IL 60088. Article: LKB 2258-041 PMV Cryo-Microtome, Type 160 and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological materials; whole animals and human tissues. Investigations will include autoradiographic drug chemical distribution studies of whole animals as well as fetal distribution studies of teratogenic compounds; histochemical studies of hormone and enzyme localization in cells and tissues of large specimens; metabolism studies of drugs and toxic or carcinogenic environmental agents; gross morphology and low powered light microscopy examination of whole human organs and animals to measure tumor metastasis. Application received by Commissioner of Customs: May 18, 1979.

Docket Number: 79-00274. Applicant: National Radio Astronomy Observatory, Post Office Box 0, 1000 Bullock Blvd. NW., Socorro, NM 87801. Article: 55 Pieces TE_{01} Mode Circular Waveguide and 3410 pieces of coupling sleeves and

Accessories. Manufacturer: Sumitomo Electric Industries, Japan. Intended use of article: The articles are to be used as part of the Very Large Array radio telescope to transmit radio wavelength radiation received from estraterrestrial objects to recording apparatus. The study of this radiation enables astronomers to study the sources of energy, origin, and evolution of the universe. Application received by Commissioner of Customs: May 18, 1979.

Docket Number: 79–00275. Applicant: The University of Arizona, Tucson, Arizona 85721. Article: Gas Chromatograph-Mass Spectrometer, Model 311A and Accessories. Manufacturer: Varian MAT GmbH, West Germany. Intended use of article: The article is intended to be used to provide analytical (MS) data for the wide array of sample classes routinely encountered. In particular, the acquisition of both high and low mass spectra on minute samples of natural or synthetic origin introduced by either a direct probe or gas chromatographic inlet. Types of compounds typically encountered include: nucleosides, nucleotides, nucletic acid bases, antibiotics related to mitomycin and anthracyline, biogenic amines, CNS agents resembling the phenothiazines and tricyclic anti-depressants, phenobarbital and phenytoin, *B*-blocking agents like proporanolol, high molecular weight petroleum products, polyisoprenes and other natural and synthetic substances. Typical problems to be investigated will include:

(a) The development of clinical applications of GC/MS for studying nucleic acid chemistry, biochemistry and pharmacology.

(b) The isolation and structure elucidation of antineoplastic agents from plants.

(c) Structure determination of antibiotics related to mitomycin and antracycline isolated from natural and synthetic sources.

(d) Analysis of hydrocarbon components of plants.

(e) Use of stable isotopes as diagnotic tools in pharmacokinetics.

(f) Assessment of *B*-blockade due to proporanolol.

(g) Structure determination metabolism/distribution studies of CNS active agents related to the phenothiazines and tricyclic antidepressants.

The article will also be used for educational purposes in the courses: Pharmacy 598. Special Topics. Advanced Analytical Instrumentation, a graduate level course covering the use of GC, HPLC and MS to pharmacological problems of analysis and Graduate Student Training in which selected students will be trained in the applications and techniques of GC/MS/DS operation. Application received by Commissioner of Customs: May 18, 1979.

Docket Number: 79–00276. Applicant: State University of New York at Buffalo, Department Physiology, 120 Sherman Hall, Buffalo, New York 14214. Article: (2 Each) Hyperbaric Blowers Type 51, Type 51 Option 01, and Type 51 Option 02. Manufacturer: Nova Scotia Research Foundation Corp., Canada. Intended use of article: The Articles are essential elements of the "Life Support System" of the hyperbaric Chamber which is used to determine to what simulated ocean depth man can be expected to reach and study his performance at these great depths. Application received by Commissioner of Customs: May 18, 1979.

Docket Number: 79–00277. Applicant: Harvard University, Purchasing Department, 75 Mt. Auburn Street, Cambridge, Massachusetts 02138. Article: Cryostat System Dittes-Duspiva Model 881 "T" and Accessories. Manufacturer: Walter Dittes, West Germany. Intended use of article: The article is intended to be used for a large number and variety of experiments that will be performed with the brains of monkeys and rats. In some experiments, thin sections of whole brain are examined under the fluorescence microscope to map the distribution of certain monoamine transmitter compounds. In others, the sections are treated with antisera against specific transmitters or their enzymes in order to find out where they are in the brain. In still others, a foreign protein, used as a tracer, is injected into the brain and is taken up by nerve endings. The objectives pursued in these investigations are: to learn the distribution of certain transmitter chemicals and related compounds, of their synthesizing and degrading enzymes, and of their uptake sites in the brain, and to learn the projections and connections of the various centers in the brain with one another, and thus to understand at a cellular level the organization of the mammalian brain. Application received by Commissioner of Customs: May 18, 1979.

Docket number: 79–00278. Applicant; University of Rochester, 250 East River Road, Rochester, New York 14623. Article: S–1 Streak Image Tube. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: the article is intended to be used to study the feasibility of heating targets with a pulsed high power laser to produce thermonuclear reactions. Application received by Commissioner of Customs: May 18, 1979.

Docket number: 79–00279. Applicant: Wm. K. Warren Medical Research Center, 6465 South Yale, Suite 1010, Tulsa, OK 74177. ARTICLE: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the investigation of the effect of immunostimulating agents on experimental tumor growth and radiation injury to lung capillaries. The objectives of these experiments will be: (1) to characterize the structure of activated macrophage, (2) to study the ultrastructural events underlying the in vivo interaction between activated macrophage and tumor cells, (3) to analyze the early post radiation injury to lung tissue and capillaries, and (4) to help in the identification of human tumors with ambiguous histological diagnosis. Application received by Commissioner of customs: May 18, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Stanley P. Kramer,

Program Manager, Florence Agreement Staff, Statutory Import Programs Staff.

[FR Doc. 79–20348 Filed 6–29–79; 8:45 am]

BILLING CODE 3510–25–M

Texas A&M University et al.; Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before July 23, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, at 666–11th Street, NW., (Room 735), Washington, D.C.

Docket Number: 79–00280. Applicant: Texas A & M University—College of Medicine, College Station, TX 77843. Article: Electron Microscope, Model H–500L and Accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for research in Cell biology, particularly in regards to membrane structure, role of microfilaments in secretion, diagnosis of diseases, and in cytochemical and ultrastructural studies designed to delineate cell structure and organization as related to development and function. The range of research projects include:

I. Delineation of cellular changes in the liver and brain of test animals exposed to toxic substances such as methalated benzenes, aflatoxins, and/or certain plant extracts.

II. Delineation of cellular changes that may be used for early diagnosis of cancer.

III. Cytochemical studies on blood cell differentiation in teleosts.

IV. Study of muscle changes as a function of exercise and drug ingestion.

V. The effects of transchest cardiac shock on heart muscle.

VI. High resolution studies on the relationship between microfilaments and secretion vesicles, particularly in regard to the microfilament attachment sites.

Application received by Commissioner of Customs: May 18, 1979.

Docket Number: 79–00281. Applicant: Massachusetts General Hospital, Fruit Street, Boston, Massachusetts 02114. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine plastic-embedded thin sections and platinum/carbon replicas of freeze fractured tissue at high resolution with tilt or stero-pair photography as appropriate. Chiefly, the article will be used to examine the structure of membranes in the mammalian central nervous system, with attention to specializations at sites of synaptic junctions, at a high level of spatial resolution which permits inference about the molecular structure of the specializations. The general objective of the planned research is a greater understanding of the mechanisms which underly the formation of appropriate brain connections and their maintenance, which in turn would permit greater insight into the pathogenesis of congenital brain malformations and also possible ways to re-establish brain connections after injury. In addition, the article will be used for teaching residents in Neurology in the fundamentals of neurocytology, and will be employed during the instruction of electron microscopic techniques to Residents and Fellows. Application received by Commissioner of Customs: May 18, 1979.

Docket Number: 79–00282. Applicant: The University of South Dakota—School of Medicine, Lee Medical Building, Clark and Dakota, Vermillion, South Dakota 57069. Article: Electron Microscope, Model JEM–100S and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the study of ultrastructural characteristics of tissues, cells, cellular inclusions, cell (organelle) fractions, bacteria and viruses from patients and experimental animals, and cultures. The experiments to be conducted will involve studies on the variety of tissues obtained and correlating the ultrastructural appearance with disease states, experimental animal and/or cultural models, and concurrent studies that identify biochemical and physiological, immunological, or pathological parameters of these samples. The article will also be used for educational purposes in the following courses: Diagnostic electron microscopy for pathologist, pathology residents, and pathology assistants; tutorials in electron microscopy for pathology residents, assistants, graduate and medical students; and brief demonstrations and exposure to electron microscopy for freshman medical students and other interested groups or individuals from the area colleges and universities, hospitals, and clinics. Application received by Commissioner of Customs: May 18, 1979.

Docket Number: 79–00283. Applicant: Albert Einstein College of Medicine, 1300 Morris Park Avenue, Bronx, New York 10461. Article: Electron Microscope, Model JEM 100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of Article: The article is intended to be used by investigators currently working on structural aspects which are central to cellular proliferation and differentiation. Specifically, the article will be used to study fundamental biological processes associated with different neoplasms dealing with aspects concerning membrane biogenesis, work on induced cell surface changes, and effect of such alterations, to use electron microscope immunocytochemistry to follow distribution of different components. The article will also be used to do heteroduplexing and DNA mapping experiments, again during normal and abnormal growth conditions. Application received by Commissioner of Customs: May 18, 1979.

Docket Number: 79–00284. Applicant: The University of South Dakota School of Medicine, Lee Medical Building, Clark and Dakota, Vermillion, South Dakota 57069. Article: Electron Microscope, Model JEM–100CX with Side Entry Goniometer and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article. The article is intended to be used for the study of ultrastructural characteristics of tissues, cells, cellular inclusions, cell (organelle) fractions, bacteria and viruses from patients and experimental animals, and cultures. The experiments to be conducted will involve studies on the variety of tissues obtained and correlating the ultrastructural appearance with disease states, experimental animal and/or culture models, and concurrent studies that identify biochemical and physiological, immunological, or pathological parameters of these samples. The article will also be used for educational purposes in the following courses: diagnostic electron microscopy for pathologist, pathology residents, and pathology assistants; tutorials in electron microscopy for pathology residents, assistants, graduate and medical students; and brief demonstrations and exposure to electron microscopy for freshman medical students and other interested groups or individuals from the area colleges and universities, hospitals, and clinics. Application received by Commissioner of Customs: May 18, 1979.

Docket Number: 79–00285. Applicant: Foundation For Cancer Detection, The Texas Woman's Center, 7550 Fannin Suite 124, Houston, Texas 77054. Article: Automated Ultrasonic Imager. Manufacturer: Ausonics Ltd., Australia. Intended use of article: The article is intended to be used in the study of early breast disease in women. The article provides a high resolute image of the breast tissue, testicles, thyroid, pancreas and other organs of the body. The images are reproduceable from patient to patient and from examination to examination. The article will be used in the training of resident physicians and technicians. Application received by Commissioner of Customs: May 29, 1979.

Docket Number: 79–00292. Applicant: California Institute of Technology, Pasadena, California 91125. Article: Nuclear Magnetic Resonance Spectrometer, Model JNM/FX–90Q and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine samples of organic and inorganic

materials produced in various research groups in the Department of Chemistry Research projects to be undertaken will include:

(a) Activation of Molecular Nitrogen, Carbon Monoxide, and Hydrocarbons With Organometallic Compounds of the Early Transition Metals Organometallic complexes will be examined by ^{13}C, ^{1}H, ^{2}H, ^{31}P, ^{15}N F.T. NMR.

(b) Chemistry of 1,1-Diazenes—Low concentrations, low temperature samples of these reactive molecules will be examined by ^{13}C, ^{1}H, ^{2}H, ^{15}N F.T. NMR. The structures of organic precursors will be routinely examined.

(c) Molecular Recognition of DNA by Small Molecules—^{13}C, ^{1}H, ^{2}H, ^{29}Si, ^{31}P. F.T. NMR spectra of small synthetic organic molecules which can serve as bis-intercalators will be obtained.

(d) Studies in Organic Synthesis—Organic natural products and their synthetic precursors require ^{13}C (^{17}O) for identification.

(e) Copper(I) Coordination Chemistry—Copper complexes will be examined by ^{65}Cu, ^{13}C, ^{17}O, and ^{1}H NMR spectroscopy. These include complexes with both polydentate synthetic and polypeptide ligands.

(f) Metal Catalyzed Reactions of Olefins—Alkyl complexes of Ni, Ti, PD. Pt and Rh will be studied by using ^{19}F, ^{13}C, ^{1}H, ^{31}P, ^{2}H, and ^{195}Pt, NMR. Similar work will be carried out on catalytic systems.

(g) Polymer Attached Catalysts—Metal complexes attached by covalent links to swellable polymers will be studied by ^{31}P, ^{13}C and, ^{191}F NMR.

(h) Preparation of Theoretically Interesting Organic Molecules—The precursors of reactive intermediates will be examined by ^{1}H, ^{13}C, ^{15}N, and ^{2}H, NMR.

(i) Use of Sugars As Chiral Synthetic Intermediates—Highly oxygenated species will be examined by ^{13}C, and ^{17}O NRM.

(j) Dynamics and Structure of Enzymes—Enzymes from species grown on enriched ^{15}N amino acids are to be studied by ^{15}N NMR.

This research will be carried out by graduate students as part of their education for which they receive formal course credit. Application received by Commissioner of Customs: June 5, 1979.

(Catalog of Federal domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Stanley P. Kramer,

Program Manager,

Florence Agreement Staff,

Statutory Import Programs Staff.

[FR Doc. 79-20348 Filed 6-29-79; 8:45 am]

BILLING CODE 3510-25-M

University of Iowa et al.; Consolidated Decision on Applications for Duty-Free Entry of an Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e)).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666-11th Street, NW (Room 735), Washington, D.C.

Docket Number: 79-00035. Applicant: University of Iowa, Department of Pathology, Iowa City, Iowa 52242. Article: Electron Microscope, Model H-300 and accessories. Manufacturer: Hitachi, Japan. Intended use of article: The article is intended to be used for studies of human and animal tissue in health and disease as seen in a diagnostic pathology service and related to investigation of disease processes in tissue. Experiments will include case analysis, series analysis of similar types of cases, the effects of drugs or treatment regimens on cells and tissues, the search for viruses and other tissue inclusions and the ultrastructural localization of tracers (peroxidase, lectins and antigens-antibody complexes). Article ordered: September 5, 1978.

Docket Number: 79-00177. Applicant: DHEW/PHS/CDC/NIOSH, Div. of Biomedical and Behavioral Science, Bilogical Support Branch, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Article: JEM 100CX Electron Microscope (standard side entry type), and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine laboratory animal tissue, human biopsy tissue, and particulate samples. A major objective of the electron microscopy work is to relate the observed morphologic alterations seen in tissue to the exposure of the subject to specific chemicals, particles or fibers. Other specific studies planned include the identification of fibers, if any, present in silica sand substitutes used in foundry operations, determination of tissue ultrastructure and/or morphology changes due to exposure to suspected toxic agents, and determination of particular size for various dusts (e.g., asbestos fibers, antimony ores, thallium oxide) presently being used in inhalation toxicology experiments. Article ordered: October 19, 1978.

Docket Number: 79-00180. Applicant: University of South Florida, 4202 Fowler Avenue, Tampa, FL 33620. Article: Electron Microscope, Model H-500L with Side Entry Goniometer Stage (H-5001) and Accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used in a wide variety of research projects extending over many years. A wide variety of biological materials will be studied including marine algae, invertebrate endocrine organs, and sensory structure. The article will be used in a course in electron microscopy techniques which instructs graduate students in the techniques necessary for the preparation of biological materials for electron microscopy and the theory in use of the electron microscope. Application received by Commissioner of Custons: March 12, 1979.

Docket Number: 79-00184. Applicant: US Army Medical Research Institute of Infectious Diseases, Fort Detrick, Frederick, MD 21701. Article: Electron Microscope, Model JEM-100CX-SEG/ASID and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the study of infections and toxemic states at the subcellular level in order to eludicate mechanisms by which toxins and infectious microorganisms enter and leave cells, and assess damage and change in cellular organeles. Article ordered: September 27, 1978.

Docket Number: 79-00186. Applicant: University of New Hampshire, Instrumentation Center, Parsons Hall, Durham, NH 03824. Article: Electron Microscope, Model JEM-100S and Accessories. Manufacturer: JOEL Ltd., Japan. Intended use of article: The article is intended to be used for studies of the pathology, embryonic developoment, differentiation and aging, utrastructural, and subcellular structures of animal tissues and microbial cells. Experiments will consist of studies of the above *in vitro* and *in vivo* with subsequent observation with electron microscopy—effects of nutrient and environmental conditions on the above. The article will also be used in the

courses: Introduction to Electron Microscopy An. Sci. 714, Introduction to Electron Microscopes Laboratory, Independent Study, Microbial Cytology Laboratory Micro. 709, Instruction in EM Techniques. Article ordered: December 28,1978.

Docket Number: 79–00189. Applicant: United States Department of Agriculture, SEA, AR, ASI, Reproduction Laboratory, Bldg. 177B, BARCEAST, Beltsville, Maryland 20705. Article: Electron Microscope, Model H–500–1 with Side Entry Stage and Accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used to cytologically examine biological tissues from agricultural reseach experiments. These research problems, which pertain to food and fiber production, include cytological examinations of sperm transport and storage in farm animals, host-parasite interactions involving crop plants and parasitic nematodes, taxonomic studies, gaining a cytological explanation for mastitis in cattle, etc. Article ordered: June 18, 1978.

Docket Number: 79–00197. Applicant: Montana State University, Department of Veterinary Science, Bozeman, Montana 59717. Article: Electron Microscope, Model JEM-100CX and Accessories. Manufacturer: JOEL Ltd., Japan. Intended use of article: The article is intended to be used in the diagnosis of many animal diseases, for identification of certain poorly differentiated neoplastic cells, for identification of viral particles, and certain environmental elements in lungs of affected animals. Specifically, the research purposes involve the study and identification of heavy elements in clinical cases of environmental lung diseases and in experimentally, induced pulmonary lesions. Other research will involve study and trace selenium and other elements in cellular malfunction both in vivo and in vitro experimental models. In addition, the article will be used for training students and staff in the principles, operation and applications of the techniques of TEM, SEM, STEM and X-ray microanalysis. Article ordered: December 29, 1978.

Docket Number: 79–00206. Applicant: College of Medicine and Dentistry of New Jersey, P.O. Box 10146, Newark, New Jersey 07101. Article: Electron Microscope, Model Elmiskop 102 and Accessories. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used for the study of diseased human and animal tissues and cells, and viruses. Observations will be carried out on the fine structural pathology of certain nervous system disorders in man and in experimental animals. The article will also be used for training graduate students in Neuroanatomy and Neurosciences, and residents in Neuropathology and Neurology who wish to acquire experience in the fine structural pathology of the nervous system and in electron cytochemistry and immunocytochemistry. Article ordered: August 21, 1978.

Docket Number: 79–00212. Applicant: National Institute of Environmental Health Sciences (NIEHS), NIH, USPHS, DHEW, P.O. Box 12233, Research Triangle Park, North Carolina 27709. Article: Electron Microscope, Model EM 400 (HMS) and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the study of ultrastructural morphology of a wide variety of cells from various organs in laboratory animals exposed to chemical compounds and physical factors (microwave, noise, etc.) of interest to Institute research personnel. Article ordered: December 19, 1978.

Docket Number: 79–00222. Applicant: Stanford University Medical Center, Stanford, California 94305. Article: Electron Microscope, Model JEM–100S with sheet film camera and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine various tissues of the eye. Although most of the material will be derived from experimental and normal animals, it is anticipated that human ocular tissue of a pathological nature will also be used. Experiments to be conducted will include: (1) Ultrastructure of nerve-epithelial interactions in the cornea, (2) ultrastructure of tissue cultural corneal cells, (3) kinetics of tracer movement into the cornea, (4) corneal pathology and (5) ultrastructural analysis of corneal transparency. The article will also be used as an educational tool for graduate students, postdoctoral students and visiting scientists. Article ordered: December 1, 1978.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.

Stanley P. Kramer,

Program Manager, Florence Agreement Program, Statutory Import Programs Staff.

[FR Doc. 79–20347 Filed 6–29–79; 8:45 am]

BILLING CODE 3510–25–M

Maritime Administration

[Docket No. S–644]

Participation by Vessels Built With CDS in the Carriage of Alaskan Oil in the Domestic Trade; Application by Boston VLCC Tankers, Inc., VI

Notice is hereby given that an application has been filed by Boston VLCC tankers, Inc., VI (Boston VI), owners of the SS *Maryland*, for written permission under section 506 of the Merchant Marine Act, 1936, as amended, for the temporary employent of the vessel in the carriage of oil in the domestic trade from Valdez, Alaska, to Puerto Armuelles on the west coast of Panama.

The *Maryland* is a 265,000 deadweight ton tanker, built with construction-differential subsidy. Boston VI has negotiated a time charter with Atlantic Richfield Company for the *Maryland* to carry oil in the Valdez/Panama service for a period of not more than six months beginning approximatly in mid-August 1979.

Interested parties may inspect Boston VI's application in the Office of the Secretary, Maritime Administration, Room 3099–B, Department of Commerce building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation who is a "competitor," as defined in § 250.2 of the regulations as set forth in Part 250

of Chapter II, Title 46, of the co de of Federal Regulations published in the **Federal Register** issue of June 29, 1977 (42 FR 33035), and desires to protest such application should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230. Protests must be received within five working days after the date of publication of this notice in the **Federal Register.** If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Assistant Secretary for Maritime Affairs. Within five working days after the due date for the applicant's response, the Assistant Secretary will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Assistant Secretary will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance program No. 11.500 Construction-Differential Subsidies (CDS)).

Dated: June 28, 1979.

By Order of the Assistant Secretary for Maritime Affairs.

James S. Dawson, Jr.,

Secretary.

[FR Doc. 79-20440 Filed 6-29-79; 8:45 am]

BILLING CODE 3510-15-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee, DoD.

ACTION: Publication of Changes in Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 87. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Canal Zone, and possessions of the United States. Bulletin Number 87 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: June 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick W. Weiser, 325–9330.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by Mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of changes in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

Civilian Personnel Per Diem Bulletin Number 87

To: The heads of executive departments and establishments

Subject: Table of maximum per diem rates in lieu of subsistence for United States Government civilian officers and employees for official travel in Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and possessions of the United States.

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated August 17, 1966, SUBJECT: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status" in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702(a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and possessions of the United States. When appropriate and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 86 except in the cases identified by an asterisk which rates are effective on the date of this Bulletin. The date of this Bulletin shall be the date the last signature is affixed hereto.

3. Each Department or Establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak [1]	$9.65
Anchorage	62.00
Annette	61.00
Barrow	94.00
Bethel	84.00
College	60.00
Cordova	76.00
Deadhorse	110.00
Delta Junction	59.00
Dutch Harbor	82.00
Eielson AFB	60.00
Elmendorf	62.00
Fairbanks	60.00
Ft. Greely	59.00
Ft. Richardson	62.00
Ft. Wainwright	60.00
Galena	52.00
Juneau	60.00
Ketchikan	61.00
King Salmon	62.00
Kodiak	68.00
Kotzebue	91.00
Murphy Dome	60.00
Noatak	91.00
Nome	90.00
Noorvik	91.00
Petersburg	61.00
Shemya AFB [1]	11.00
Shungnak	91.00
Sitka-Mt. Edgecombe	61.00
Skagway	61.00
Spruce Cape	68.00
Tanana	90.00
Valdez	70.00
Wainwright	79.00
Wrangell	61.00
Other	62.00
American Samoa	54.00
Canal Zone	50.00
Guam M.I.	54.00
Hawaii:	
*Hawaii	59.00
*Kauai	55.00
*Maui	54.00
Molokai	54.00
*Oahu	70.00
*Other	54.00
Johnston Atoll	15.00
Midway Islands [1]	9.65
Puerto Rico:	
Aguadilla (Incl CG Air Station Borinquen)	60.00
Bayamon:	
12-16—5-15	66.00
5-16—12-15	52.00
Dorado	54.00
Fajardo:	
12-16—5-15	66.00
5-16—12-15	52.00
Ft. Buchanan (Incl GSA Service Center, Guaynabo):	
12-16—5-15	66.00
5-16—12-15	52.00
Mayaguez	60.00
Ponce (Incl. Ft. Allen NCS)	58.00
Roosevelt Roads:	
12-16—5-15	66.00
5-16—12-15	52.00
Sabana Seca:	
12-16—5-15	66.00
5-16—12-15	52.00
San Juan (Incl. San Juan Coast Guard Units):	
12-16—5-15	66.00
5-16—12-15	52.00
Other	52.00
Virgin Islands of U.S.:	
12-1—4-30	66.00
5-1—11-30	54.00
Wake Island [2]	17.00
Other Localities	15.00

[1] Commercial facilities are not available. This per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler.

[3]Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meal, and incidental expenses.

H. E. Lofdahl,

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

June 26, 1979.

[FR Doc. 79-20305 Filed 6-29-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

[DOE/EIS-0026-D]

Waste Isolation Pilot Plant Draft Environmental Impact Statement; Supplemental Notice of a Sixty Day Public Comment Period Extension

AGENCY: Department of Energy.

ACTION: Notice of extension of the public comment period of the Waste Isolation Pilot Plant (WIPP) Draft Environmental Impact Statement (DEIS) to September 6, 1979.

SUMMARY: The Department of Energy (DOE) announces an extension for the comment period on the draft environmental impact statement, DOE/EIS-0026-D, Waste Isolation Pilot Plant (April 1979), on the pending proposal to design, construct and operate a licensed waste isolation pilot plant (WIPP) for the permanent disposal of radioactive transuranic nuclear wastes (TRU), for research and development on various high level waste forms in a mined repository, and for use as an intermediate scale facility (ISF) for the disposal of up to a thousand spent fuel assemblies from commercial nuclear power reactors. A notice of the availability of the DEIS was published on April 18, 1979 (44 FR 23117). Since that time several interested parties have requested additional time to review the DEIS.

DATES: Written comments are due by September 6, 1979.

ADDRESS: Written comments should be sent to: Department of Energy, Attention Mr. Eugene Beckett, WIPP Project Office, MS B-107, Washington, D.C. 20545 (301/353-3253).

FOR FURTHER INFORMATION CONTACT:

Mr. Eugene Beckett, WIPP Project Leader, Department of Energy, MS B-107, Washington, D.C. 20545, 301/353-3253.

Dr. Robert J. Stern, Director, NEPA Affairs Division, Department of Energy, MS E-201, Washington, D.C. 20545, 202/376-5998.

Mr. Stephen H. Greenleigh, Assistant General Counsel for Environment, Forrestal Building, MS 6A-152, Department of Energy, Washington, D.C. 20585, 202/252-6947.

Mr. Ben E. McCarty, Public Affairs Officer, Forrestal Building, MS 8G-031, Department of Energy, Washington, D.C. 20585, 202/252-4296.

Mr. Don Schueler, Project Manager, WIPP Project Office, Department of Energy, Albuquerque, New Mexico 87115, 505/766-3884.

SUPPLEMENTARY INFORMATION:

I. Previous Notices

The Department of Energy published a notice of intent (43 FR 30331) on July 14, 1978, regarding the preparation of a DEIS on a proposed waste isolation pilot plant and soliciting comments as to the scope and content of that document. The notice of intent indicated that the proposed facility was being considered for siting in Eddy County, New Mexico. The Department of Energy published a notice of availability of the DEIS (44 FR 23117) on April 18, 1979.

II. Background for the Proposed Project

The role of the proposed project in the Nation's overall program has been examined by an interagency review group (IRG) whose report to the President was issued in March 1979 (TID-29442).

The DEIS examined the WIPP proposal in light of the policy options contained in the IRG report and discusses the environment impacts of a WIPP reference case and other program and site alternatives.

III. Purpose of the EIS

The Department of Energy intends to use the WIPP EIS as the environmental input for five major decisions:

1. Whether to pursue the construction of the proposed WIPP, a mined repository for the disposal of transuranic wastes, with an initial period of retrievable emplacement.

2. Whether the WIPP should include an intermediate-scale facility in which up to 1000 assemblies of spent fuel from commercial electricity-generating reactors would be disposed of, with an initial period of retrievable emplacement.

3. Whether the WIPP should include a research-and-development facility in which experiments with all types of nuclear waste, including high-level waste, can be performed.

4. What the timing and location of the WIPP should be.

5. Whether to commit land now for a potential repository site in Eddy County, New Mexcio.

IV. Comment Procedures

A. Availability of Draft EIS

Copies of the DEIS are also available for public inspection at:

Public Reading Room, FOI, Room GA-152, Forrestal Building, 1000 Independence Ave., SW., Washington, DC.

Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, New Mexico.

Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois.

Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Illinois.

Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.

Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nevada.

Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee.

Richland Operations Office, Federal Building, Richland, Washington.

Energy Information Center, 215 Fremont Street, San Francisco, California.

Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.

Regional Energy/Environment Information Center, Denver Public Library, 1357 Broadway, Denver, Colorado.

Carlsbad Public Library, Public Document Room, 101 South Halagueno Street, Carlsbad, New Mexico.

B. Written Comments

The **Federal Register** Notice of April 18, 1979, invited interested parties to submit written comments with respect to the DEIS to the WIPP Project Office at the Washington, D.C. address listed above. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Draft EIS on WIPP." All comments and related information should be received by DOE by September 6, 1979 in order to insure consideration.

Any information or data considered by the person furnishing it to be confidential must be accompanied by a written statement of confidentiality. Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Dated at Washington, D.C. this 26th day of 1979.

For the United States Department of Energy.

James L. Liverman,

Deputy Assistant Secretary for Environment.

[FR Doc. 79-20342 Filed 6-29-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 79-CERT-001]

E. I. Du Point de Nemours & Co.; Notice of Certification of Eligible Use of Natural Gas To Displace Fuel Oil

E. I. DuPont de Nemours and Company (DuPont) filed three separate applications for certification of an eligible use of natural gas to displace fuel oil at its Chamber Works, Newport Plant, and Old Hickory Plant with the Administrator of the Economic Regulatory Administration pursuant to 10 CFR Part 595 on May 1, 1979. Notice of those applications was published in the **Federal Register** (44 FR 33924, June 13, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The Administrator has carefully reviewed DuPont's applications in accordance with 10 CFR Part 595 and the policy considerations expressed in the Interim-Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas for Fuel Oil Displacement (44 FR 20398, April 5, 1979). The Administrator has determined that DuPont's applications satisfy the criteria enumerated in 10 CFR Part 595, and, therefore has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., June 25, 1979.

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

Re: ERA Certification of Eligible Use, ERA Docket No. 79-CERT-001, E. I. DuPont de Nemours and Company.

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory Commission, Washington, D.C.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting the enclosed certification of an eligible use of natural gas to displace fuel oil to the Commission. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F (FERC Order No. 30, 44 FR 30323, May 25, 1979). As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461, telephone (202) 254-9730. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79-CERT-001.

Sincerely,

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the E. I. Du Pont de Nemours & Co.; ERA Docket No.79-Cert-001

Application for Certification

Pursuant to 10 CFR Part 595, three separate applications for certification of an eligible use of natural gas were filed by E. I. DuPont de Nemours and Company (DuPont) with the Administrator of the Economic Regulatory Administration (ERA) on May 1, 1979. The eligible seller of the gas in each application is Cabot Corporation. One application is for certification of an eligible use of up to 6,000 Mcf per day at DuPont's Chambers Works to be transported by Consolidated Natural Gas Company and Transcontinental Gas Pipeline Company. A second application requests certification of up to 2,500 Mcf per day at DuPont's Newport Plant to be transported by those same pipelines. The third application requests certification of up to 4,000 Mcf per day at DuPont's Old Hickory Plant to be transported by Tennessee Gas Pipeline Company and Tennessee Natural Gas Lines, Inc. The affidavits attached to these applications indicate that the natural gas will displace up to 347,000 barrels per year of No. 6 fuel oil (1.5% sulfur), 154,000 barrels per year of No. 6. fuel oil (.3% sulfur), and 259,000 barrels per year of No. 2 fuel oil (low sulfur). The affidavits also state that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the applications, as well as other information available to ERA, the Administrator hereby certifies, pursuant to 10 CFR Part 595, that the use of up to 12,500 Mcf of natural gas per day at DuPont's Chamber Works, Newport Plant, and Old Hickory Plant purchased from Cabot Corporation is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F.

Issued in Washington, D.C. on June 25, 1979.

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 79-20275 Filed 6-29-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-020]

Public Service Electric & Gas Co.; Notice of Certification of Eligible Use of Natural Gas To Displace Fuel Oil

Public Service Electric and Gas Company (Public Service) filed an application for certification of an eligible use of natural gas to displace fuel oil with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 on May 17, 1979. Notice of that application was published in the **Federal Register** (44 FR 35002, June 18, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments have been received to date.

The Administrator has carefully reviewed the application of Public Service in accordance with 10 CFR Part 595 and the policy considerations expressed in the Interim-Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas for Fuel Oil Displacement (44 FR 20398, April 5, 1979). The Administrator has determined that Public Service's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Public Service's application involves the displacement of approximately 3.7 million barrels of imported fuel oil over a one year period. The purchase contracts for this gas with National Gas and Oil Corporation (National) and Equitable Gas Company (Equitable) expire in October, 1979. Public Service estimates that, at this time, it could displace approximately 17,000 barrels per day of imported fuel oil upon issuance of this certification. Therefore, this certification is being issued prior to the expiration of the 10 day public comment period to maximize the amount of surplus gas that can be purchased under the contracts with National and Equitable and, thus, further the public interest in the immediate displacement of such a large volume of imported fuel oil. The

immediate displacement of this fuel oil will have a significant beneficial impact on DOE's oil displacement program. Public comments will still be accepted by ERA for the remainder of the original 10-day comment period in view of the ability of the Administrator to terminate a certification for good cause (10 CFR 595.06).

Issued in Washington, D.C., June 25, 1979.

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

Re: ERA Certification of Eligible Use, ERA Docket No. 79–CERT–020, Public Service Electric and Gas Company.

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory Commission, Washington, D.C.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting the enclosed certification of an eligible use of natural gas to displace fuel oil to the Commission. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F (FERC Order No. 30, 44 FR 30323, May 25, 1979). As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter priod of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 6318, Washington, D.C. 20461, telephone (202) 254–9730. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79–CERT–020.

Sincerely,

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Public Service Electric & Gas Co.; ERA Docket No. 79–Cert–020

Application for Certification

Pursuant to 10 CFR Part 595, an application was filed by Public Service Electric and Gas Company (Public Service) on May 17, 1979, with the Administrator of the Economic Regulatory Administration (ERA) for certification of an eligible use of up to 24.1 Bcf of natural gas for a one year period. The application lists the various Public Service facilities located in New Jersey that will use the gas. The application states the eligible sellers and the transporters of the gas are: Natural Gas and Oil Corporation, to be transported by Texas Eastern Transmission; Equitable Gas Company, to be transported by Tennessee Gas Pipe Line Corporation; Delhi Gas Pipeline Corporation to be transported by Transcontinental Gas Pipeline Corporation. Attached to the application was an affidavit stating, among other things, that it was anticipated that the natural gas would displace approximately 3,621,000 barrels of No. 6 fuel oil (.3% sulfur) and 105,000 barrels of No. 2 fuel oil (.2% sulfur) or kerosene (.1% sulfur). The affidavit also states that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the Administrator hereby certifies, pursuant to 10 CFR Part 595, that the use of up to 24.1 Bcf of natural gas for a one year period by Public Service at its facilities listed in the application and purchased from National Gas and Oil Corporation, Equitable Gas Company, and Delhi Gas Pipeline Corporation is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F.

Issued in Washington, D.C. on June 25, 1979.

Barton R. House,

Acting Deputy Administrator, Economic Regulatory Administration.

[FR Doc. 79–20274 Filed 6–29–79; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

June 20, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Louisiana Office of Conservation

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–07232
2. 17–111–00000–
3. 108
4. IMC Exploration Company
5. Love #1
6. Monroe Gas Field
7. Union LA
8. 7.7 million cubic feet
9. May 18, 1979
10. Mid Louisiana Gas Company

1. 79–07233
2. 17–111–00000–
3. 108
4. IMC Exploration Company
5. Love #2
6. Monroe Gas Field
7. Union LA
8. 1.5 million cubic feet
9. May 18, 1979
10. Mid Louisiana Gas Company

1. 79–07234
2. 17–111–00000–
3. 108
4. IMC Exploration Company
5. Love #3
6. Monroe Gas Field
7. Union LA
8. 3.3 million cubic feet
9. May 18, 1979
10. Mid Louisiana Gas Company

1. 79–07235
2. 17–111–00538–
3. 108
4. IMC Exploration Company
5. La Gas Lands #3
6. Monroe Gas Field
7. Union LA
8. 5.6 million cubic feet
9. May 18, 1979
10. Mid Louisiana Gas Company

1. 79–07236
2. 17–073–00000–
3. 108
4. IMC Exploration Company
5. Lemle #50
6. Monroe Gas Field
7. Ouachita LA
8. 9.9 million cubic feet
9. May 18, 1979
10. Mid Louisiana Gas Company

1. 79–07237
2. 17–111–00559–
3. 108
4. IMC Exploration Company
5. La Gas Lands #2
6. Monroe Gas Field
7. Union LA
8. 3.8 million cubic feet
9. May 18, 1979
10. Mid Louisiana Gas Company

1. 79–07238
2. 17–045–20529–
3. 103
4. Texaco Inc
5. Sl 293 Lake Fausse Point #113
6. Fausse Point
7. Iberia/Parish
8. 921.0 million cubic feet
9. May 18, 1979
10. Florida Gas Transmission Co

1. 79–07239
2. 17–045–20494
3. 103
4. Texaco Inc
5. SL 334 Vermilion Bay #B–68
6. Vermilion Bay
7. Iberia/Parish LA
8. 614.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–07240
2. 17–045–20519
3. 103
4. Texaco Inc
5. SL 334 Vermilion Bay #B–69
6. Vermilion Bay
7. Iberia/Parish LA
8. .0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–07241
2. 17–111–00000
3. 108
4. IMC Exploration Company
5. Hill #1
6. Monroe Gas Field
7. Union LA
8. 7.3 million cubic feet
9. May 18, 1979
10. Mid Louisiana Gas Company

1. 79–07242
2. 17–111–00000
3. 108
4. IMC Exploration Company
5. Hill #2
6. Monroe Gas Field
7. Union LA
8. 1.5 million cubic feet
9. May 18, 1979
10. Mid Louisiana Gas Company

1. 79–07243
2. 17–111–01189
3. 108
4. IMC Exploration Company
5. Hill #3
6. Monroe Gas Field
7. Union LA
8. 9.5 million cubic feet
9. May 18, 1979
10. Mid Louisiana Gas Company

1. 79–07244
2. 17–111–01228
3. 106
4. IMC Exploration Company
5. Hill #4
6. Monroe Gas Field
7. Union LA
8. 4.7 million cubic feet
9. May 18, 1979
10. Mid Louisiana Gas Company

1. 79–07245
2. 17–111–01810
3. 108
4. IMC Exploration Company
5. Jinny #59
6. Monroe Gas Field
7. Union LA
8. 12.4 million cubic feet
9. May 18, 1979
10. Mid Louisiana Gas Company

1. 79–07246
2. 17–073–00000
3. 108
4. IMC Exploration Company
5. Jones #2
6. Monroe Gas Field
7. Quachita LA
8. 9.1 million cubic feet
9. May 18, 1979
10. Mid Louisiana Gas Company

1. 79–07247
2. 17–111–01209
3. 108
4. IMC Exploration Company
5. Lankforn #2
6. Monroe Gas Field
7. Union LA
8. 4.7 million cubic feet
9. May 18, 1979
10. Mid Louisiana Gas Company

1. 79–07248
2. 17–053–20576
3. 103
4. Caribbean Oil & Gas Corporation
5. Walker No. 3
6. China
7. Jefferson Davis LA
8. 2.2 million cubic feet
9. May 18, 1979
10. Texas Gas Transportation Corp

Utah Divison of Oil, Gas and Mining

1. Control number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–07301
2. 43–019–30255–
3. 108
4. Willard Pease Oil & Gas Co
5. Kewanee No 1–28
6. Cisco Springs
7. Grand UT
8. .0 million cubic feet
9. May 18, 1979
10. Northwest Pipeline Corp

1. 79–07302
2. 43–047–30362–
3. 102
4. Belco Development Corporation
5. NBU 24–32B 30362
6. Natural Buttes Unit
7. Uintah UT
8. 5.0 million cubic feet
9. May 18, 1979
10. Colorado Interstate Gas Co.

1. 79–07303
2. 43–047–30285–
3. 103
4. Belco Development Corporation
5. Natural Buttes Unit 9–32B 30285
6. Natural Buttes Unit
7. Uintah UT
8. 5.0 million cubic feet
9. May 18, 1979
10. Colorado Interstate Gas Co.

1. 79–07304
2. 43–047–30306–
3. 103
4. Gas Producing Enterprises Inc
5. Natural Buttes 30–16–10–22
6. Bitter Creek
7. Uintah UT
8. 137.0 million cubic feet
9. May 18, 1979
10. Colorado Interstate Gas Co.

1. 79–07305
2. 43–047–30307–
3. 103
4. Gas Producing Enterprises Inc
5. Natural Buttes 31–11–10–22
6. Bitter Creek
7. Uintah UT
8. 275.0 million cubic feet
9. May 18, 1979
10. Colorado Interstate Gas Co.

1. 79–07306
2. 43–047–30491–
3. 103
4. Gas Producing Enterprises Inc
5. Natural Buttes 43–14–10–22
6. Bitter Creek
7. Uintah UT
8. 137.0 million cubic feet
9. May 18, 1979
10. Colorado Interstate Gas Co.

1. 79–07307
2. 43–047–30256–
3. 103
4. Gas Producing Enterprises Inc
5. Natural Buttes 22–18–10–22
6. Bitter Creek
7. Uintah UT
8. 128.0 million cubic feet
9. May 18, 1979
10. Colorado Interstate Gas Co.

1. 79–07308
2. 43–047–30243–
3. 103
4. Gas Producing Enterprises Inc
5. Natural Buttes 2–29–10–21
6. Bitter Creek
7. Uintah UT
8. 92.0 million cubic feet
9. May 18, 1979
10. Colorado Interstate Gas Co.

1. 79–07309
2. 43–047–30471–
3. 103
4. Gas Producing Enterprises Inc
5. Natural Buttes 18–2–10–21
6. Bitter Creek
7. Uintah UT
8. 367.0 million cubic feet
9. May 18, 1979
10. Colorado Interstate Gas Co.

1. 79–07310
2. 43–047–30482–
3. 103
4. Gas Producing Enterprises Inc
5. Natural Buttes 39–28–10–21
6. Bitter Creek
7. Uintah UT
8. 18.0 million cubic feet
9. May 18, 1979
10. Colorado Interstate Gas Co.

1. 79–07311
2. 43–047–30305–
3. 103
4. Gas Producing Enterprises Inc
5. Natural Buttes 28–13–10–21
6. Bitter Creek
7. Uintah UT
8. 55.0 million cubic feet
9. May 18, 1979
10. Colorado Interstate Gas Co.

U.S. Geological Survey, Metairie, La.

1. Control number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume

9. Date received at FERC
10. Purchaser(s)

1. 79–07312
2. 17–712–40105–0000–0
3. 102
4. CNG Producing Company
5. A–10–D1
6. Ship Shoal
7. 246
8. 73.0 million cubic feet
9. May 18, 1979
10. Consolidated Gas Supply Corporation

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–07249
2. 30–039–06819–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 27–4 Unit #10
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 12.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company

1. 79–07250
2. 30–045–11434–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 32–5 Unit #18
6. Blanco-Mesaverde Gas
7. San Juan, NM
8. 6.2 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company

1. 79–07251
2. 30–039–07090–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 27–4 Unit #3
6. Blanco-Mesaverde Gas
7. Rio Arriba, NM
8. 4.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company

1. 79–07252
2. 30–039–06926–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 27–5 Unit #13
6. Blanco-Mesaverde Gas
7. Rio Arriba, NM
8. 7.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company
Northwest Pipeline Corporation

1. 79–07253
2. 30–045–21028–0000–0
3. 108
4. El Paso Natural Gas Company
5. Mudge #41 P C
6. Blanco-Pictured Cliffs Gas
7. San Juan, NM
8. 16.4 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company

1. 79–07254
2. 30–045–21266–0000–0
3. 108
4. El Paso Natural Gas Company
5. Russell 10
6. Blanco South-Pictured Cliffs Gas
7. San Juan, NM
8. 12.8 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company

1. 79–07255
2. 30–045–60065–0000–0
3. 108
4. El Paso Natural Gas Company
5. Cundiff X 1
6. Blanco-Mesaverde Gas
7. San Juan, NM
8. 11.3 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company

1. 79–07256
2. 30–039–20502–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 28–7 Unit NP 161
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 13.1 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company

1. 79–07257
2. 30–045–07342–0000–0
3. 108
4. El Paso Natural Gas Company
5. Florance C 1
6. Blanco Mesaverde Gas
7. San Juan, NM
8. 14.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company

1. 79–07258
2. 30–039–21574–0000–0
3. 103
4. Northwest Pipeline Corporation
5. San Juan 29–6 Unit #28A
6. Blanco MV
7. Rio Arriba NM
8. 103.0 million cubic feet
9. May 30, 1979
10. Northwest Pipeline Corporation
El Paso Natural Gas Co

1. 79–07259
2. 30–039–21575–0000–0
3. 103
4. Northwest Pipeline Corporation
5. S/J 29–6 Unit #41A
6. Blanco MV
7. Rio Arriba NM
8. 71.0 million cubic feet
9. May 30, 1979
10. Northwest Pipeline Corporation
El Paso Natural Gas Co

1. 79–07260
2. 30–039–00000–0000–0
3. 103
4. Northwest Pipeline Corporation
5. S/J 29–6 Unit #13A
6. Blanco MV
7. Rio Arriba NM
8. .0 million cubic feet
9. May 30, 1979
10. Northwest Pipeline Corporation
El Paso Natural Gas Co

1. 79–07261
2. 30–045–22540–0000–0
3. 103
4. Northwest Pipeline Corporation
5. San Juan 32–7 #45PC
6. Undesignated-wildcat
7. San Juan NM
8. 105.0 million cubic feet
9. May 30, 1979
10. Northwest Pipeline Corporation

1. 79–07262
2. 30–039–21572–0000–0
3. 103
4. Northwest Pipeline Corporation
5. San Juan 29–6 #39A
6. Blanco MV
7. Rio Arriba NM
8. 60.0 million cubic feet
9. May 30, 1979
10. Northwest Pipeline Corporation
El Paso Natural Gas Co

1. 79–07263
2. 30–039–21454–0000–0
3. 103
4. Northwest Pipeline Corporation
5. S/J 29–5 Unit Com #80 PC
6. Gobernador PC
7. Rio Arriba NM
8. 93.0 million cubic feet
9. May 30, 1979
10. Northwest Pipeline Corporation

1. 79–07264
2. 30–045–22537–0000–0
3. 103
4. Northwest Pipeline Corporation
5. Cox Canyon Unit Com #23P
6. Blanco PC
7. San Juan NM
8. 124.0 million cubic feet
9. May 30, 1979
10. Northwest Pipeline Corporation
El Paso Natural Gas Co

1. 79–07265
2. 30–039–21654–0000–0
3. 103
4. Northwest Pipeline Corporation
5. S/J 30–5 #68
6. Blanco Mesa Verde
7. Rio Arriba NM
8. 70.0 million cubic feet
9. May 30, 1979
10. Northwest Pipeline Corporation
El Paso Natural Gas Co

1. 79–07266
2. 30–039–21577–0000–0
3. 103
4. Northwest Pipeline Corporation
5. S/J 29–6 Unit 42A
6. Blanco MV
7. Rio Arriba NM
8. 72.0 million cubic feet
9. May 30, 1979
10. Northwest Pipeline Corporation
El Paso Natural Gas Co

1. 79–07267
2. 30–045–21040–0000–0
3. 108
4. El Paso Natural Gas Company
5. Grambling A 5
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 12.4 million cubic feet
9. May 30, 1979

10. El Paso Natural Gas Co
1. 79–07268
2. 30–045–21092–0000–0
3. 108
4. El Paso Natural Gas Company
5. Dryden 6
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 8.8 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07269
2. 30–045–21224–0000–0
3. 108
4. El Paso Natural Gas Company
5. San Jacinto 9
6. Bloomfield-Chacra Gas
7. San Juan NM
8. 13.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07270
2. 30–045–07066–0000–0
3. 108
4. El Paso Natural Gas Company
5. Michener A 2
6. Aztec-Pictured Cliffs Gas
7. San Juan NM
8. 6.9 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07271
2. 30–045–11318–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 32–9 Unit NP 8
6. Blanco-Mesaverde Gas
7. San Juan NM
8. 4.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07272
2. 30–045–60020–0000–0
3. 108
4. El Paso Natural Gas Company
5. Huerfano Unit #155
6. Basin-Dakota Gas
7. San Juan NM
8. 15.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
Northwest Pipeline Corporation
Southern Union Gathering Co
1. 79–07273
2. 30–039–05315–0000–0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #74
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 9.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07274
2. 30–039–06826–0000–0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27–5 Unit #5
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 4.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
Northwest Pipeline Corporation
1. 79–07275
2. 30–039–07141–0000–0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27–5 Unit #2
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 12.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
Northwest Pipeline Corporation
1. 79–07276
2. 30–039–06356–0000–0
3. 108
4. El Paso Natural Gas Company
5. Reams #1
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 10.2 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07277
2. 30–045–09014–0000–0
3. 108
4. El Paso Natural Gas Company
5. Kelly #1
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 9.9 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07278
2. 30–039–05261–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla P #5
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 7.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07279
2. 30–039–05280–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla P #6
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 8.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07280
2. 30–039–82335–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla B #14
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 4.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07281
2. 30–045–06389–0000–0
3. 108
4. El Paso Natural Gas Company
5. Denman #1
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan NM
8. 6.6 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07282
2. 30–039–06412–0000–0
3. 108
4. El Paso Natural Gas Company
5. Reams A #2
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 16.1 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07283
2. 30–039–06386–0000–0
3. 108
4. El Paso Natural Gas Company
5. Reams A #1
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 5.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07284
2. 30–039–07255–0000–0
3. 108
4. El Paso Natural Gas Company
5. San Juan 28–4 Unit #5
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 4.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07285
2. 30–039–07293–0000–0
3. 108
4. El Paso Natural Gas Company
5. San Juan 28–4 Unit #15
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 7.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07286
2. 30–045–20825–0000–0
3. 108
4. El Paso Natural Gas Company
5. Howell 9
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 8.8 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07287
2. 30–045–06419–0000–0
3. 108
4. El Paso Natural Gas Company
5. Rowley B 1
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan NM
8. 5.8 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07288
2. 30–045–06275–0000–0
3. 108
4. El Paso Natural Gas Company
5. Frost 6
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan NM
8. 2.6 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
1. 79–07289
2. 30–045–06302–0000–0
3. 108
4. El Paso Natural Gas Company
5. Rowley D 1
6. Fulcher Kutz-Pictured Cliffs Gas
7. San Juan NM

8. 2.6 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79–07290
2. 30–039–05530–0000–0
3. 108
4. El Paso Natural Gas Company
5. Lindrith Unit NP 27
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 4.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79–07291
2. 30–039–07095–0000–0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27–5 Unit #91
6. Blanco-Mesaverde Gas
7. Rio Arriba NM
8. 7.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
Northwest Pipeline Corporation

1. 79–07292
2. 30–045–21043–0000–0
3. 108
4. El Paso Natural Gas Company
5. Grambling A 8
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 10.2 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79–07293
2. 30–039–06295–0000–0
3. 108
4. El Paso Natural Gas Company
5. Vaughn 5
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 13.1 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79–07294
2. 30–039–20829–0000–0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27–4 Unit #91
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 18.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79–07295
2. 30–039–20837–0000–0
3. 108
4. El Paso Natural Gas Company
5. San Juan 27–4 Unit #94
6. Basin-Dakota Gas
7. Rio Arriba NM
8. 12.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79–07296
2. 30–039–20326–0000–0
3. 108
4. El Paso Natural Gas Company
5. San Juan 28–7 Unit #148
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 15.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79–07297
2. 30–039–20744–0000–0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit 221
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 8.4 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79–07298
2. 30–039–20281–0000–0
3. 108
4. El Paso Natural Gas Company
5. Canyon Largo Unit #157
6. Ballard-Pictured Cliffs Gas
7. Rio Arriba NM
8. 18.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79–07299
2. 30–039–06943–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 27–5 Unit #75
6. Tapacito-Pictured Cliffs Gas
7. Rio Arriba NM
8. 15.7 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co
Northwest Pipeline Corporation

1. JD79–07300
2. 30–045–13284–0000–0
3. 108
4. El Paso Natural Gas Company
5. Turner Hughes #5
6. Blanco South-Pictured Cliffs Gas
7. San Juan NM
8. 12.4 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before July 17, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc 79–20063 Filed 6–29–79; 8:45 am]

BILLING CODE 6450–01–M

Determinations by Jurisdictional Agencies under the Natural Gas Policy Act of 1978

June 20, 1979

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Alabama Oil and Gas Board

1. Control number (F.E.R.C./States)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block number
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–06975
2. 01–057–20129–
3. 103
4. Terra Resources Inc
5. W B Hocutt #1
6. West Fayette
7. Fayette AL
8. .0 milion cubic feet
9. May 25, 1979
10. Warrior Drilling & Eng Co Inc

1. 79–06976
2. 01–075–20168–
3. 102
4. Warrior Drilling & Eng Co Inc
5. Claude Sizemore
6. Blowhorn Creek
7. Lamar AL
8. 772.0 milion cubic feet
9. May 25, 1979
10.

1. 79–06977
2. 01–075–20174–
3. 102
4. Warrior Drilling & Eng Co Inc
5. Thomas
6. Blowhorn Creek
7. Lamar AL
8. 535.0 milion cubic feet
9. May 25, 1979
10.

1. 79–06978
2. 01–075–20154–
3. 102
4. Warrior Drilling & Eng Co Inc
5. Jones
6. Blowhorn Creek
7. Lamar AL
8. 101.0 milion cubic feet
9. May 25, 1979
10.

1. 79–06979
2. 01–075–20139–
3. 102
4. Warrior Drilling & Eng Co Inc
5. Airline Manufacturing Co 24–6
6. Blowhorn Creek
7. Lamar AL
8. 772.0 milion cubic feet
9. May 25, 1979

10.
1. 79–06980
2. 01–075–20166–
3. 102
4. Warrior Drilling & Eng Co Inc
5. Black
6. Blowhorn Creek
7. Lamar AL
8. 135.0 milion cubic feet
9. May 25, 1979
10.
1. 79–06981
2. 01–075–20182–
3. 102
4. Warrior Drilling & Eng Co Inc
5. Coats 10–9
6. Blowhorn Creek
7. Lamar AL
8. 442.0 milion cubic feet
9. May 25, 1979
10.
1. 79–06982
2. 01–075–20191–
3. 102
4. Warrior Drilling & Eng Co Inc
5. Coats 11–12
6. Blowhorn Creek
7. Lamar AL
8. 223.0 milion cubic feet
9. May 25, 1979
10.
1. 79–06983
2. 01–075–20185–
3. 102
4. Warrior Drilling & Eng Co Inc
5. Airline Manufacturing Co 23–1
6. Blowhorn Creek
7. Lamar AL
8. 54.0 milion cubic feet
9. May 25, 1979
10.
1. 79–06984
2. 01–057–20023–
3. 102
4. Warrior Drilling & Eng Co Inc
5. Hodges-Chamberlain
6. Bluff
7. FayetteAL
8. 98.0 milion cubic feet
9. May 25, 1979
10.

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block Number
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79–06785
2. 34–133–21735–0014–
3. 103
4. Inland Drilling Co Inc
5. Stamm Contracting #1 #1735
6.
7. Portage OH
8. 5.0 million cubic feet
9. May 24, 1979
10.
1. 79–06786
2. 34–153–21785–0014–
3. 103
4. Inland Drilling Co Inc
5. L Bunker #1 #0595
6.
7. Summit OH
8. 1.5 million cubic feet
9. May 24, 1979
10.
1. 79–06787
2. 34–153–20596–0014–
3. 103
4. Inland Drilling Co Inc
5. Wartko #1 #0596
6.
7. Summit OH
8. 1.5 million cubic feet
9. May 24, 1979
10.
1. 79–06788
2. 34–133–21785–0014–
3. 103
4. Inland Drilling Co Inc
5. Strausser #3 1785
6.
7. Portage OH
8. .5 million cubic feet
9. May 24, 1979
10.
1. 79–06789
2. 34–169–21922–0014–
3. 108
4. Ponderosa Oil Company
5. Edwin Swan Well #1
6.
7. Wayne OH
8. 12.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Trans Corp
1. 79–06790
2. 34–031–22254–0014–
3. 108
4. Jerry Moore Inc
5. D R Foster #1
6. Nellie
7. Coshocton OH
8. 9.8 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission
1. 79–06791
2. 34–031–22373–0014–
3. 108
4. Jerry Moore Inc
5. F J Fisher-C McClain Unit #1
6. Warsaw
7. Coshocton OH
8. 4.7 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission
1. 79–06792
2. 34–031–22600–0014–
3. 108
4. Jerry Moore Inc
5. Wayne D Darr #20196
6. Newcomerstown
7. Coshocton OH
8. .3 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission
1. 79–0693
2. 34–169–21896–0014–
3. 108
4. Ponderosa Oil Company
5. Emanuel Miller Well #2
6.
7. Wayne OH
8. 7.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Trans Corp
1. 79–06794
2. 34–167–23975–0014–
3. 108
4. Liberty Oil & Gas Corp
5. Dick Young #4
6.
7. Washington OH
8. .0 million cubic feet
9. May 24, 1979
10. Columbia Gas Trans Corp
1. 79–06795
2. 34–167–23538–0014–
3. 108
4. Liberty Oil & Gas Corporation
5. Dick Young #1
6.
7. Washington OH
8. 9.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp
1. 79–06796
2. 34–167–23721–0014–
3. 108
4. Liberty Oil & Gas Corp
5. Leroy & Ruth Morgan #2
6.
7. Washington OH
8. 6.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Trans Corp
1. 79–06797
2. 34–167–23722–0014–
3. 108
4. Liberty Oil & Gas Corp
5. Leroy & Ruth Morgan #1
6.
7. Washington OH
8. 7.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Trans Corp
1. 79–06798
2. 34–167–23763–0014–
3. 108
4. Liberty Oil & Gas Corp
5. Dick Young #3
6.
7. Washington OH
8. 9.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Trans Corp
1. 79–06799
2. 34–167–23617–0014–
3. 108
4. Liberty Oil & Gas Corp
5. Dick Young #2
6.
7. Washington OH
8. 9.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Trans Corp
1. 79–06800
2. 34–031–22787–0014–
3. 108
4. Jerry Moore Inc
5. R T Baker #1
6. Warsaw
7. Cushocton OH
8. 1.2 million cubic feet

9. May 24, 1979
10. Columbia Gas Transmission
1. 79–06801
2. 34–031–22854–0014–
3. 108
4. Conpetro Ventures Ltd
5. Peabody #4
6.
7. Coshocton OH
8. 13.0 million cubic feet
9. May 24, 1979
10. National Gas & Oil Corp
1. 79–06802
2. 34–119–23189–0014–
3. 108
4. American Exploration Company
5. Glunt Unit #1
6.
7. Muskingum OH
8. 12.0 million cubic feet
9. May 24, 1979
10. Clinton Gas/Newzane Gas Co
1. 79–06803
2. 34–119–23192–0014–
3. 108
4. American Exploration Company
5. Lincicome-Ridgley #1
6.
7 Muskingum OH
8. 12.0 million cubic feet
9. May 24, 1979
10. National Gas & Oil Corp
1. 79–06804
2. 34–075–20592–0014–
3. 108
4. Baker Bros Oil & Gas Co
5. Hoops #4–B
6.
7. Holmes OH
8. .7 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp
1. 79–06805
2. 34–075–20582–0014–
3. 108
4. Baker Bros Oil & Gas Co
5. Hoops #2–B
6.
7. Holmes OH
8. .7 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp
1. 79–06806
2. 34–075–20589–0014–
3. 108
4. Baker Bros Oil & Gas Co
5. Hoops #3–B
6.
7. Holmes OH
8. .7 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp
1. 79–06807
2. 34–075–20578–0014–
3. 108
4. Baker Bros Oil & Gas Co
5. Hoops #1–B
6.
7. Holmes OH
8. .7 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp
1. 79–06808
2. 34–127–21457–0014–
3. 108
4. Oxford Oil Co
5. R E & Norma Beard #11
6.
7. Perry OH
8. 3.0 million cubic feet
9. May 24, 1979
10. National Gas & Oil Corp
1. 79–06809
2. 34–153–20402–0014–
3. 108
4. K-Vill Oil & Gas Company
5. Lauby #2
6.
7. Summit OH
8. 5.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company
1. 79–06810
2. 34–153–20378–0014–
3. 108
4. K-Vill Oil & Gas Company
5. Lauby #1
6.
7. Summit OH
8. 5.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company
1. 79–06811
2. 34–153–20409–0014–
3. 108
4. K-Vill Oil & Gas Company
5. W Wise #2
6.
7. Summit OH
8. 6.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company
1. 79–06812
2. 34–153–20408–0014–
3. 108
4. K-Vill Oil & Gas Company
5. W Wise #1
6.
7. Summit OH
8. 6.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company
1. 79–06813
2. 34–153–20403–0014–
3. 108
4. K-Vill Oil & Gas
5. Lauby #3
6.
7. Summit OH
8. 5.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company
1. 79–06814
2. 34–127–24002–0014–
3. 108
4. The Oxford Oil Co
5. Mary M Woods #1
6.
7. Perry OH
8. 5.0 million cubic feet
9. May 24, 1979
10. Newzane Gas Co
1. 79–06815
2. 34–127–24003–0014–
3. 108
4. The Oxford Oil Co
5. Mary M Woods #2
6.
7. Perry OH
8. 5.0 million cubic feet
9. May 24, 1979
10. Newzane Gas Co.
1. 79–06816
2. 34–119–22969–0014–
3. 108
4. American Exploration Co
5. Charles Shuey #1A
6.
7. Muskingum OH
8. 2.0 million cubic feet
9. May 24, 1979
10. Clinton/Newzane Gas Co
1. 79–06817
2. 34–075–21512–0014–
3. 108
4. American Exploration Co
5. Aaron D and Fannie Schlabach #1
6.
7. Holmes OH
8. 12.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Co
1. 79–06818
2. 34–029–20597–0014–
3. 103
4. R C Ernst
5. F R Burg No. 2
6.
7. Columbiana OH
8. 144.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Co
1. 79–06819
2. 34–029–20745–0014–
3. 103
4. R C Ernst
5. F R Burg No. 1
6.
7. Columbiana OH
8. 144.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Co
1. 79–06820
2. 34–157–22566–0014–
3. 103
4. MB Operating Co Inc
5. Mizer #1
6.
7. Tuscarawas OH
8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company
1. 79–06821
2. 34–157–23190–0014–
3. 103
4. MB Operating Co Inc
5. G & B Mizer #2
6.
7. Tuscarawas OH
8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company
1. 79–06822
2. 34–157–22984–0014–
3. 103
4. MB Operating Co Inc
5. J & A Mosshart Unit #1–A
6.
7. Tuscarawas OH

8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company

1. 79–06823
2. 34–157–22989–0014–
3. 103
4. MB Operating Co Inc
5. J & A Mosshart Unit #2–A
6.
7. Tuscarawas OH
8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company

1. 79–06824
2. 34–157–22988–0014–
3. 103
4. MB Operating Co Inc
5. J & A Mosshart Unit #3–A
6.
7. Tuscarawas OH
8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company

1. 79–06825
2. 34–157–23005–0014–
3. 103
4. MB Operating Co Inc
5. M & A Neidig Unit #2
6.
7. Tuscarawas OH
8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company

1. 79–06826
2. 34–157–23220–0014–
3. 103
4. MB Operating Co Inc
5. M & A Neidig Unit #3
6.
7. Tuscarawas OH
8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company

1. 79–06827
2. 34–019–21249–0014–
3. 103
4. MB Operating Co Inc
5. Rohr-Kindelberger #2
6.
7. Carroll OH
8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company

1. 79–06828
2. 34–019–21167–0014–
3. 103
4. MB Operating Co Inc
5. E Ross #1
6.
7. Carroll OH
8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company

1. 79–06829
2. 34–019–21046–0014–
3. 103
4. MB Operating Co Inc
5. D. M. Smith #1
6.
7. Carroll OH
8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company

1. 79–06830
2. 34–119–23954–0014–
3. 103
4. Callander & Kimbrel Inc
5. W Funk #3
6.
7. Muskingum OH
8. 23.8 million cubic feet
9. May 24, 1979
10. Epro Inc

1. 79–06831
2. 34–133–21548–0014–
3. 103
4. Callander & Kimbrel Inc
5. Hura #1
6.
7. Portage OH
8. 9.8 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06832
2. 34–133–21549–0014–
3. 103
4. Callander & Kimbrel Inc
5. Hura #2
6.
7. Portage OH
8. 8.8 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06833
2. 34–119–23793–0014–
3. 103
4. Callander & Kimbrel Inc
5. Frueh #1
6.
7. Muskingum OH
8. 2.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06834
2. 34–119–24076–0014–
3. 103
4. Callander & Kimbrel Inc
5. Blackstone #2
6.
7. Muskingum OH
8. 4.4 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06835
2. 34–133–21199–0014–
3. 103
4. Callander & Kimbrel Inc
5. Bello #1
6.
7. Portage OH
8. 5.6 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06836
2. 34–119–24333–0014–
3. 103
4. Callander & Kimbrel Inc
5. Barr Pitts #1
6.
7. Muskingum OH
8. 18.0 million cubic feet
9. May 24, 1979
10.

1. 79–06837
2. 34–119–24116–0014–
3. 103
4. Callander & Kimbrel Inc
5. Baughman #1
6.
7. Muskingum OH
8. 12.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06838
2. 34–133–21111–0014–
3. 103
4. Callander & Kimbrel Inc
5. Eastep #1
6.
7. Portage OH
8. 20.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06839
2. 34–089–22914–0014–
3. 108
4. Oxford Oil Co
5. R M Cooperrider #2
6.
7. Licking OH
8. 4.5 million cubic feet
9. May 24, 1979
10. Columbia Gas Trans Corp

1. 79–06840
2. 34–169–20385–0014–
3. 108
4. Oxford Oil Co
5. J D Graber #A–1
6.
7. Wayne OH
8. 2.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Trans Corp

1. 79–06841
2. 34–121–21926–0014–
3. 108
4. St Joe Petroleum (US) Corp
5. A Nau #1
6. Undesignated
7. Noble OH
8. 8.0 million cubic feet
9. May 24, 1979
10. Republic Steel Corporation

1. 79–06842
2. 34–007–20339–0014–
3. 108
4. Quaker State Oil Refining Corp
5. Tokesky #1
6.
7. Ashtabula, OH
8. 9.9 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06843
2. 34–007–20348–0014–
3. 108
4. Quaker State Oil Refining Corp
5. Peinke #1
6.
7. Ashtabula, OH
8. 2.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06844

2. 34–007–20213–0014–
3. 108
4. Quaker State Oil Refining Corp
5. Kemmer #1
6.
7. Ashtabula, OH
8. 3.3 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06845
2. 34–007–20382–0014–
3. 108
4. Quaker State Oil Refining Corp
5. Porter-Sloan #1
6.
7. Ashtabula, OH
8. 2.7 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06846
2. 34–007–20213–0014–
3. 108
4. Quaker State Oil Refining Corp
5. Kemmer Gehalo #1
6.
7. Ashtabula, OH
8. 2.2 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06847
2. 34–007–20275–0014–
3. 108
4. Quaker State Oil Refining Corp
5. Corkrean #1
6.
7. Ashtabula, OH
8. 9.9 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06848
2. 34–007–20239–0014–
3. 108
4. Quaker State Oil Refining Corp
5. Davis #1
6.
7. Ashtabula, OH
8. 2.7 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06849
2. 34–007–20299–0014–
3. 108
4. Quaker State Oil Refining Corp
5. Diemer #1
6.
7. Ashtabula, OH
8. 5.9 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06850
2. 34–007–20332–0014–
3. 108
4. Quaker State Oil Refining Corp
5. Chapin #1
6.
7. Ashtabula, OH
8. 3.3 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06851
2. 34–007–20340–0014–
3. 108
4. Quaker State Oil Refining Corp
5. Davis #2
6.
7. Ashtabula, OH
8. 6.1 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06852
2. 34–007–20331–0014–
3. 108
4. Quaker State Oil Refining Corp
5. Pettit-Huttera #1
6.
7. Ashtabula, OH
8. 4.1 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06853
2. 34–007–20338–0014–
3. 108
4. Quaker State Oil Refining Corp
5. Miller #1
6.
7. Ashtabula, OH
8. 17.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06854
2. 34–007–20330–0014–
3. 108
4. Quaker State Oil Refining Corp
5. Noriot-Baloney #1
6.
7. Ashtabula, OH
8. 5.2 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06855
2. 34–007–20370–0014–
3. 108
4. Quaker State Oil Refining Corp
5. Veverka #2
6.
7. Ashtabula, OH
8. 5.1 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06856
2. 34–121–21932–0014–
3. 108
4. St Joe Petroleum (US) Corp
5. V Chuang #1
6. Undesignated
7. Noble OH
8. 11.0 million cubic feet
9. May 24, 1979
10. Republic Steel Corporation

1. 79–06857
2. 34–121–21745–0014–
3. 108
4. St Joe Petroleum (US) Corp
5. R Dennis #1
6. Undesignated
7. Noble OH
8. 3.0 million cubic feet
9. May 24, 1979
10. Republic Steel Corporation

1. 79–06858
2. 34–121–21768–0014–
3. 108
4. St Joe Petroleum (US) Corp
5. Carl Baker #1
6. Undesignated
7. Noble OH
8. 9.0 million cubic feet
9. May 24, 1979
10. Republic Steel Corporation

1. 79–06859
2. 34–121–21927–0014–
3. 108
4. St Joe Petroleum (US) Corp
5. R Dennis #2
6. Undesignated
7. Noble OH
8. 3.0 million cubic feet
9. May 24, 1979
10. Republic Steel Corporation

1. 79–06860
2. 34–111–21696–0014–
3. 108
4. Raymond Moley Jr
5. Earl Cline #1
6.
7. Monroe County OH
8. 1.5 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp

1. 79–06861
2. 34–111–21694–0014–
3. 108
4. Raymond Moley Jr
5. H P Cline #1
6.
7. Monroe County OH
8. .4 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp

1. 79–06862
2. 34–111–21730–0014–
3. 108
4. Raymond Moley Jr
5. Emma McHugh #1
6.
7. Monroe County OH
8. 2.8 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp

1. 79–06863
2. 34–121–21684–0014–
3. 108
4. St. Joe Petroleum (US) Corp
5. V Moore #1
6. Undesignated
7. Noble OH
8. 10.0 million cubic feet
9. May 24, 1979
10. Republic Steel Corporation

1. 79–06864
2. 34–121–21736–0014–
3. 108
4. St Joe Petroleum (US) Corp
5. J Hupp #1
6. Undesignated
7. Noble OH
8. 8.0 million cubic feet
9. May 24, 1979
10. Republic Steel Corporation

1. 79–06865
2. 34–121–21696–0014–
3. 108
4. St Joe Petroleum (US) Corp
5. Everly Bates #1
6. Undesignated
7. Noble OH
8. 9.0 million cubic feet
9. May 24, 1979
10. Republic Steel Corporation

1. 79–06866
2. 34–157–22985–0014–

3. 103
4. Oil & Gas Drilling Ptshp 77-A Ltd
5. Marvin Hursey #2
6.
7. Tuscarawas OH
8. 15.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company

1. 79-06867
2. 34-157-22952-0014-
3. 103
4. H I Snyder
5. Otis Henderson #1
6.
7. Tuscarawas OH
8. 42.0 million cubic feet
9. May 24, 1979
10. Republic Steel Corporation

1. 79-06868
2. 34-157-23014-0014-
3. 103
4. H I Snyder
5. Ralph Everett #1
6.
7. Tuscarawas OH
8. 25.0 million cubic feet
9. May 24, 1979
10. Republic Steel Corporation

1. 79-06869
2. 34-157-22947-0014-
3. 103
4. H I Snyder
5. Glenn Mutchler #4
6.
7. Tuscarawas OH
8. 40.0 million cubic feet
9. May 24, 1979
10. Republic Steel Corporation

1. 79-06870
2. 34-157-22951-0014-
3. 103
4. H I Snyder
5. Glenn Mutchler #5
6.
7. Tuscarawas OH
8. 38.0 million cubic feet
9. May 24, 1979
10. Republic Steel Corporation

1. 79-06871
2. 34-157-22994-0014-
3. 103
4. Oil & Gas Drilling Part 77-B Ltd
5. Glenn F Renner #1
6.
7. Tuscarawas OH
8. 20.0 million cubic feet
9. May 24, 1979
10. Republic Steel Corporation

1. 79-06872
2. 34-157-23001-0014-
3. 103
4. Oil & Gas Drilling Part 77-A Ltd
5. Charles L Deeds #3
6.
7. Tuscarawas OH
8. 30.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company

1. 79-06873
2. 34-157-22986-0014-
3. 103
4. Oil & Gas Drilling Part 77-A Ltd
5. Marvin Hursey #1
6.
7. Tuscarawas OH
8. 24.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company

1. 79-06874
2. 34-157-22948-0014-
3. 103
4. H I Snyder
5. Glenn Mutchler #3
6.
7. Tuscarawas OH
8. 33.0 million cubic feet
9. May 24, 1979
10. Republic Steel Corporation

1. 79-06875
2. 34-157-23112-0014-
3. 103
4. H I Snyder
5. Ruth Carruthers #1
6.
7. Tuscarawas OH
8. 32.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company

1. 79-06876
2. 34-119-24018-0014-
3. 103
4. Callander & Kimbrel Inc
5. Funk-Funk #1
6.
7. Muskingum OH
8. 29.7 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79-06877
2. 34-119-24109-0014-
3. 103
4. Callander & Kimbrel Inc
5. Gardner #1
6.
7. Muskingum OH
8. 11.3 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79-06878
2. 34-119-24084-0014-
3. 103
4. Callander & Kimbrel Inc
5. Lake #5A
6.
7. Muskingum OH
8. 11.4 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79-06879
2. 34-133-21442-0014-
3. 103
4. Callander & Kimbrel Inc
5. Maurer #1
6.
7. Portage OH
8. 8.8 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79-06880
2. 34-073-21949-0014-
3. 103
4. Gen Elec Co Haddad & Brooks Inc (Ag
5. Ralph Poston #5
6.
7. Hocking OH
8. 4.0 million cubic feet
9. May 24, 1979
10.

1. 79-06881
2. 34-073-22005-0014-
3. 103
4. Gen Elec Co Haddad & Brooks Inc (Ag
5. R Poston #7
6.
7. Hocking OH
8. 10.0 million cubic feet
9. May 24, 1979
10.

1. 79-06882
2. 34-073-21950-0014-
3. 103
4. Gen Elec Co Haddad & Brooks Inc (Ag
5. R Poston #6
6.
7. Hocking OH
8. 4.0 million cubic feet
9. May 24, 1979
10.

1. 79-06883
2. 34-073-22006-0014-
3. 103
4. Gen Elec Co Haddad & Brooks Inc (Ag
5. R Poston #8
6.
7. Hocking OH
8. 1.0 million cubic feet
9. May 24, 1979
10.

1. 79-06884
2. 34-045-20578-0014-
3. 103
4. Reliance Management Co
5. Ralph Young #1
6.
7. Fairfield OH
8. 15.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp

1. 79-06885
2. 34-045-20588-0014-
3. 103
4. Reliance Management Co
5. R Franks Unit #1
6.
7. Fairfield OH
8. 8.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp

1. 79-06886
2. 34-045-20592-0014-
3. 103
4. Reliance Management Co
5. C A Miller #1
6.
7. Fairfield OH
8. 15.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp

1. 79-06887
2. 34-053-20351-0014-
3. 103
4. T & H Drilling Co
5. Elliott #1
6.
7. Gallia OH
8. 11.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp

1. 79-06888
2. 34-053-20353-0014-
3. 103
4. T & H Drilling Company

5. Lewis Lee #2
6.
7. Gallia OH
8. 5.4 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission

1. 79–06889
2. 34–053–20352–0014–
3. 103
4. T & H Drilling Co
5. Lewis Lee #1
6.
7. Gallia OH
8. 5.4 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission

1. 79–06890
2. 34–053–20361–0014–
3. 103
4. T & H Drilling Company
5. Searles #1
6.
7. Gallia OH
8. 11.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp

1. 79–06891
2. 34–053–20345–0014–
3. 103
4. T & H Drilling Co
5. Stump #1
6.
7. Gallia OH
8. 14.6 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp

1. 79–06892
2. 34–073–21921–0014–
3. 103
4. Gen Elec Co Haddad & Brooks Inc (Ag
5. R. Poston #4
6.
7. Hocking OH
8. 4.0 million cubic feet
9. May 24, 1979
10.

1. 79–06893
2. 34–019–21157–0014–
3. 103
4. L&M Exploration
5. Tripp #1
6.
7. Carroll OH
8. 2.0 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06894
2. 34–019–21150–0014–
3. 103
4. L&M Exploration
5. Watkins #3
6.
7. Carroll OH
8. 2.5 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06895
2. 34–019–21197–0014–
3. 103
4. L&M Exploration
5. Tripp #3
6.
7. Carroll OH
8. 2.5 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06896
2. 34–019–21068–0014–
3. 103
4. L&M Exploration
5. Wise #4
6.
7. Carroll OH
8. 3.0 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06897
2. 34–019–21057–0014–
3. 103
4. L&M Exploration
5. Wise #3
6.
7. Carroll OH
8. 3.0 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06898
2. 34–019–21056–0014–
3. 103
4. L&M Exploration
5. Wise #2
6.
7. Carroll OH
8. 3.0 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06899
2. 34–019–21058–0014–
3. 103
4. L&M Exploration
5. Wise #1
6.
7. Carroll OH
8. 3.0 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06900
2. 34–019–21154–0014–
3. 103
4. L&M Exploration
5. Wood #4
6.
7. Carroll OH
8. 2.5 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06901
2. 34–019–21155–0014–
3. 103
4. L&M Exploration
5. Wood #3
6.
7. Carroll OH
8. 2.5 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06902
2. 34–155–21011–0014–
3. 103
4. Berea Oil and Gas Corporation
5. R Banner #1
6.
7. Trumbull, OH
8. 14.4 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co.

1. 79–06903
2. 34–155–21096–0014–
3. 103
4. Berea Oil and Gas Corporation
5. P & A Bahr Unit #1
6.
7. Trumbull, OH
8. 18.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co.

1. 79–06904
2. 34–019–21101–0014–
3. 103
4. L&M Exploration
5. Hadorn #1
6.
7. Carroll, OH
8. 3.0 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06905
2. 34–019–211151–0014–
3. 103
4. L&M Exploration
5. Wood #2
6.
7. Carroll, OH
8. 2.5 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06906
2. 34–019–21152–0014–
3. 103
4. L&M Exploration
5. Wood #1
6.
7. Carroll, OH
8. 2.5 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06907
2. 34–019–21196–0014–
3. 103
4. L&M Exploration
5. Tripp #2
6.
7. Carroll, OH
8. 2.5 million cubic feet
9. May 24, 1979
10. Bananza Gas Line

1. 79–06908
2. 34–019–21100–0014–
3. 103
4. L&M Exploration
5. Hadron #3
6.
7. Carroll, OH
8. 3.0 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06909
2. 34–019–21099–0014–
3. 103
4. L&M Exploration
5. Hadron #2
6.
7. Carroll, OH
8. 3.0 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06910
2. 34–019–21105–0014–
3. 103
4. L&M Exploration
5. Hadorn #5

6.
7. Carroll, OH
8. 3.0 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06911
2. 34–019–21106–0014–
3. 103
4. L&M Exploration
5. Hadorn #4
6.
7. Carroll, OH
8. 3.0 million cubic feet
9. May 24, 1979
10. Bonanza Gas Line

1. 79–06912
2. 34–119–23792–0014–
3. 103
4. Callander & Kimbrel Inc.
5. Lake #4A
6.
7. Muckingum, OH
8. 3.8 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co.

1. 79–06913
2. 34–133–21198–0014–
3. 103
4. Callander & Kimbrel Inc.
5. Webb #1
6.
7. Portage, OH
8. 7.4 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co.

1. 79–06914
2. 34–019–21251–0014–
3. 103
4. MB Operating Co. Inc.
5. Smith Nursey #2
6.
7. Carroll, OH
8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company

1. 79–06915
2. 34–019–21237–0014–
3. 103
4. MB Operating Co. Inc.
5. R & N Stone Unit #1
6.
7. Carroll, OH
8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company

1. 79–06916
2. 34–019–21108–0014–
3. 103
4. MB Operating Co. Inc.
5. J T & M Syler #1
6.
7. Carroll, OH
8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company

1. 79–06917
2. 34–019–21236–0014
3. 103
4. MB Operating Co. Inc.
5. J Symes Unit #1
6.
7. Carroll, OH
8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company

1. 79–06918
2. 34–019–22149–0014–
3. 103
4. MB Operating Co. Inc.
5. Watkins #2
6.
7. Carroll, OH
8. 5.5 million cubic feet
9. May 24, 1979
10. East Ohio Gas Company, Republic Steel Corporation, Columbia Gas Company

1. 79–06919
2. 34–167–24207–0014–
3. 103
4. Dewey Tilton & Jos Cosgriff
5. Larry Tilton #4
6.
7. Washington, OH
8. .0 million cubic feet
9. May 24, 1979
10.

1. 79–06920
2. 34–119–24115–0014–
3. 103
4. Callander & Kimbrel Inc.
5. Vernon #1
6.
7. Muskingum, OH
8. 8.0 milion cubic feet
9. May 24, 1979
10. American Energy Services, Inc.

1. 79–06921
2. 34–035–20872–0014–
3. 103
4. Callander & Kimbrel, Inc.
5. Shaker Holzworth #1
6.
7. Cuyahoga, OH
8. 9.6 million cubic feet
9. May 24, 1979
10. Columbia Gas of Ohio

1. 79–06922
2. 34–133–21157–0014–
3. 103
4. Callander & Kimbrel, Inc
5. Road Island Lakes #1
6.
7. Portage, OH
8. 16.2 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co.

1. 79–06923
2. 34–133–21761–0014–
3. 103
4. Inland Drilling Co. Inc.
5. Mosher #1 1761
6.
7. Portage, OH
8. .5 million cubic feet
9. May 24, 1979
10.

1. 79–06924
2. 34–133–21782–0014–
3. 103
4. Inland Drilling Co. Inc.
5. Sugarbush Golf #1 1782
6.
7. Portage, OH
8. .3 million cubic feet
9. May 24, 1979
10.

1. 79–06925
2. 34–133–20396–0014–
3. 103
4. Inland Drilling Co. Inc.
5. Jay-Mar Coal #5 0396
6.
7. Vinton, OH
8. .3 million cubic feet
9. May 24, 1979
10.

1. 79–06926
2. 34–133–21763–0014–
3. 103
4. Inland Drilling Co. Inc.
5. Mosher #2 1763
6.
7. Portage, OH
8. .5 million cubic feet
9. May 24, 1979
10.

1. 79–06927
2. 34–133–21320–0014–
3. 103
4. Inland Drilling Co. Inc.
5. Lukens #1 1320
6.
7. Portage, OH
8. .4 million cubic feet
9. May 24, 1979
10.

1. 79–06928
2. 34–009–21921–0014–
3. 103
4. Inland Drilling Co. Inc.
5. Federal Valley Coal Corp., #1 1921
6.
7. Athens, OH
8. .5 million cubic feet
9. May 24, 1979
10.

1. 79–06929
2. 34–133–21793–0014–
3. 103
4. Inland Drilling Co. Inc.
5. Resnick #2 1793
6.
7. Portage, OH
8. .3 million cubic feet
9. May 24, 1979
10.

1. 79–06930
2. 34–119–24129–0014–
3. 103
4. American Exploration Co
5. Weiser #2
6.
7. Muskingum OH
8. 17.0 million cubic feet
9. May 24, 1979
10. Newzane Gas Co.

1. 79–06931
2. 34–059–22533–0014–
3. 103
4. Bauman Oil & Gas Co Inc
5. Bauman Rehard #5
6.
7. Guernsey OH
8. 40.0 million cubic feet
9. May 24, 1979
10. Columbia Gas Transmission Corp

1. 79–06932

2. 34–157–21342–0014–
3. 108
4. Appalachian Exploration Inc
5. Kelley #1
6.
7. Tuscarawas OH
8. 10.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06933
2. 34–157–21363–0014–
3. 108
4. Appalachian Exploration Inc
5. Gundy #3
6.
7. Tuscarawas OH
8. 10.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06934
2. 34–157–21362–0014–
3. 108
4. Appalachian Exploration Inc
5. Gundy #2
6.
7. Tuscarawas OH
8. 5.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06935
2. 34–059–21087–0014–
3. 108
4. Appalachian Exploration Inc
5. W H Lucas #1
6.
7. Guernsey OH
8. 4.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06936
2. 34–157–21293–0014–
3. 108
4. Appalachian Exploration Inc
5. Larson Clay #1
6.
7. Tuscarawas OH
8. 10.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06937
2. 34–157–21137–0014–
3. 108
4. Appalachian Exploration Inc
5. Gundy #1
6.
7. Tuscarawas OH
8. 4.0 million cubic feet
9. May 24, 1979
10. East Ohio Gas Co

1. 79–06938
2. 34–153–20407–0014–
3. 108
4. K-Vill Oil & Gas
5. Boettler #1
6.
7. Summit OH
8. 14.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

Utah Division of Oil, Gas, and Mining

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79–06615
2. 43–047–30234–
3. 103
4. Belco Petroleum Corporation
5. Chapita Wells Unit 33–16 30234
6. Chapita Wells Field
7. Uintah UT
8. .0 million cubic feet
9. June 1, 1979
10. Mountain Fuel Supply Co

Wyoming Oil and Gas Conservation Commission

1. Control Number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–06939
2. 49–037–20930–
3. 103
4. Champlin Petroleum Company
5. UPRR 3–21 SESE 21–19N–99W
6. Patrick Draw
7. Sweetwater WY
8. 55.0 million cubic feet
9. May 18, 1979
10. Colo Int Gas Co

1. 79–06940
2. 49–041–20171
3. 103
4. Champlin Petroleum Company
5. CPC UPRR 24–11 SESW 11–15N–113W
6. Hank Hollow
7. Uinta WY
8. 140.0 million cubic feet
9. May 18, 1979
10.

1. 79–06941
2. 49–037–21143
3. 103
4. Champlin Petroleum Company
5. #26 Desert Springs SENW 15–20N–98W
6. Desert Springs
7. Sweetwater WY
8. 100.0 million cubic feet
9. May 18, 1979
10. Colo Int Gas Co

1. 79–06942
2. 49–037–21016
3. 103
4. Champlin Petroleum Company
5. #30N Brady Unit SENW 11–16–N–101W
6. Brady
7. Sweetwater WY
8. 401.0 million cubic feet
9. May 18, 1979
10. MTN Fuel Supply Co

1. 79–06943
2. 49–035–20416
3. 103
4. Belco Petroleum Corporation
5. Fogarty Creek Unit 6–16 20416
6. Fogarty Creek
7. Sublette WY
8. .0 million cubic feet
9. May 18, 1979
10. Northwest Pipeline Corporation

1. 79–06944
2. 49–035–20430
3. 103
4. Belco Petroleum Corporation
5. Thompson 2–8 20403
6. Tip Top-Greater Big Piney
7. Sublette WY
8. .0 million cubic feet
9. May 18, 1979
10. Northwest Pipeline Corporation

1. 79–06945
2. 49–037–21088
3. 103
4. Champlin Petroleum Corporation
5. #5 UPRR 1–7 SENW 7–20N–94W
6. Wamsutter
7. Sweetwater WY
8. 900.0 million cubic feet
9. May 18, 1979
10. Colo Int Gas Co

1. 79–06946
2. 49–013–20709
3. 102
4. CIG Exploration Inc
5. Lybyer 1–8–38–89 FEE
6. Madden
7. Fremont WY
8. 1170.0 million cubic feet
9. May 18, 1979
10. Colorado Interstate Gas Co

1. 79–06947
2. 49–013–20728
3. 102
4. CIG Exploration Inc
5. Lybyer 1–9–38–89 FEE
6. Madden
7. Fremont WY
8. 715.0 million cubic feet
9. May 18, 1979
10. Colorado Interstate Gas Co

1. 79–06948
2. 49–005–24524
3. 102
4. Davis Oil Company
5. Gilbertz F–1
6. Hartzog Draw
7. Campbell WY
8. 24.0 million cubic feet
9. May 18, 1979
10. Phillips Petroleum Company

1. 79–06949
2. 49–005–24543
3. 102
4. Davis Oil Company
5. Gilbertz (FG) #2
6. Hartzog Draw
7. Campbell WY
8. 40.0 million cubic feet
9. May 18, 1979
10. Phillips Petroleum Company

1. 79–06950
2. 49–005–24631
3. 102
4. Davis Oil Company
5. Larry #1
6. Hartzog Draw
7. Campbell WY
8. 20.0 million cubic feet

9. May 18, 1979
10. Phillips Petroleum Company
1. 79-06951
2. 49-005-24768
3. 103
4. Davis Oil Company
5. Leon #1
6. Squaw Creek
7. Campbell WY
8. 1400.0 million cubic feet
9. May 18, 1979
10. McCulloch Gas Processing Corporation
1. 79-06952
2. 49-045-21250
3. 103
4. Davis Oil Company
5. E S T #2
6. Todd
7. Weston
8. 5.0 million cubic feet
9. May 18, 1979
10. Phillips Petroleum Company
1. 79-06953
2. 49-037-21089
3. 107
4. Champlin Petroleum Company
5. #7 Higgins Unit SENW 33-18N-98W
6. Higgins
7. Sweetwater WY
8. 2500.0 million cubic feet
9. May 18, 1979
10. Colo Int Gas Co Cities Service Gas Co., Stauffer Chemical Co.
1. 79-06954
2. 49-037-21275
3. 107
4. Champlin Petroleum Company
5. #10 Higgins Unit NENE 21-18N-98W
6. Higgins
7. Sweetwater WY
8. 3000.0 million cubic feet
9. May 18, 1979
10. Colo Int Gas Co., Cities Service Gas Co., Stauffer Chemical Co
1. 79-06955
2. 49-037-20893
3. 103
4. Champlin Petroleum Company
5. #4 Higgins Unit SWNE 32-18N-98W
6. Higgins
7. Sweetwater WY
8. 2900.0 million cubic feet
9. May 18, 1979
10. Colo Int Gas Co., Cities Service Gas Co., Stauffer Chemical Co
1. 79-06956
2. 49-023-20232
3. 103
4. Pacific Transmission Supply Co.
5. PTS 42-32 Buck
6. Fontenelle
7. Lincoln WY
8. 34.1 million cubic feet
9. May 24, 1979
10. Pacific Gas Transmission Company
1. 79-06957
2. 49-023-20210
3. 103
4. Pacific Transmission Supply Company
5. PTS 24-36 State
6. Fontenelle
7. Lincoln WY
8. 41.4 million cubic feet
9. May 24, 1979
10. Pacific Gas Transmission Company
1. 79-06958
2. 49-037-21033
3. 102
4. Davis Oil Company
5. Hay Reservoir Unit 15
6. Hay Reservoir
7. Sweetwater WY
8. 730.0 million cubic feet
9. May 24, 1979
10. Panhandle Eastern Pipe Line Company
1. 79-06959
2. 49-037-21189
3. 102
4. Davis Oil Company
5. Hay Reservoir Unit 17
6. Hay Reservoir
7. Sweetwater WY
8. 170.0 million cubic feet
9. May 24, 1979
10. Panhandle Eastern Pipe Line Company
1. 79-06960
2. 49-009-21313
3. 103
4. Davis Oil Company
5. Lucille #1
6. Mikes Draw
7. Converse WY
8. 22.0 million cubic feet
9. May 24, 1979
10. Phillips Petroleum Company
1. 79-06961
2. 49-005-00000
3. 103
4. Diamond Shamrock Corporation
5. Lubken FEE 12-2
6. Hartzog Draw
7. Campbell WY
8. 3.0 million cubic feet
9. May 24, 1979
15.
1. 79-06962
2. 49-005-00000
3. 102
4. Pennzoil Company
5. Pennzoil-Camblin 1-19
6. Hartzog Draw
7. Campbell WY
8. 18.0 million cubic feet
9. May 24, 1979
10. Phillips Petroleum Company
1. 79-06963
2. 49-037-21000
3. 103
4. Texaco Inc
5. Delaney Rim Unit Well No. 8
6. Delaney Rim Unit
7. Sweetwater County WY
8. 4.0 million cubic feet
9. May 24, 1979
10. Champlin Petroleum Company
1. 79-06964
2. 49-037-05423
3. 103
4. Texaco Inc
5. Delaney Rim Unit Well No. 9
6. Delaney Rim Unit
7. Sweetwater County WY
8. 16.0 million cubic feet
9. May 24, 1979
10. Champlin Petroleum Company 65
1. 79-06965
2. 49-037-21063
3. 103
4. Texaco Inc
5. Delaney Rim Unit Well No. 14
6. Delaney Rim Unit
7. Sweetwater County WY
8. 12.0 million cubic feet
9. May 24, 1979
10. Champlin Petroleum Company
1. 79-06966
2. 49-037-21097
3. 103
4. Texaco Inc
5. Delaney Rim Unit Well No. 17
6. Delaney Rim Unit
7. Sweetwater County WY
8. 8.0 million cubic feet
9. May 24, 1979
10. Champlin Petroleum Company
1. 79-06967
2. 49-037-20921
3. 103
4. Texaco Inc
5. Delaney Rim Unit Well No. 5
6. Delaney Rim Unit
7. Sweetwater County WY
8. 4.0 million cubic feet
9. May 24, 1979
10. Champlin Petroleum Company
1. 79-06968
2. 49-037-21145
3. 108
4. Texaco Inc
5. Table Rock Unit No. 35
6. Table Rock
7. Sweetwater Wy
8. 10.0 million cubic feet
9. May 24, 1979
10. Colorado Interstate Gas Company
1. 79-06969
2. 49-005-24442
3. 103
4. Texaco Inc
5. C M Christensen A 1
6. Hartzog Draw
7. Campbell WY
8. 13.6 million cubic feet
9. May 24, 1979
10. Phillips Petroleum Company
1. 79-06970
2. 49-019-20384
3. 102
4. Davis Oil Company
5. Heldt Draw Unit 42
6. Table Mountain
7. Johnson WY
8. 19.4 million cubic feet
9. May 24, 1979
10. Phillips Petroleum Company
1. 79-06971
2. 49-005-24608
3. 103
4. Davis Oil Company
5. Jacobs #3
6. Hilight
7. Campbell WY
8. 240.0 million cubic feet
9. May 24, 1979
10. Phillips Petroleum Company
1. 79-06972
2. 49-037-20934
3. 103
4. Texaco Inc
5. Table Rock Unit No 25
6. Table Rock

7. Sweetwater WY
8. 80.0 million cubic feet
9. May 24, 1979
10. Colorado Interstate Gas Company

1. 79–06973
2. 49–037–21114
3. 107
4. Texaco Inc
5. Table Rock Unit Well No. 32
6. Table Rock
7. Sweetwater WY
8. 1480.0 million cubic feet
9. May 24, 1979
10. Colorado Interstate Gas Company

1. JD79–06974
2. 49–037–21074
3. 107
4. Texaco, Inc.
5. Table Rock Unit Well No. 33
6. Table Rock
7. Sweetwater WY
8. 5700.0 million cubic feet
9. May 24, 1979
10. Colorado Interstate Gas Co.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before July 17, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–20064 Filed 6–29–79; 8:45 am]

BILLING CODE 6450–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

June 21, 1979

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Michigan Department of Natural Resources

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–07058
2. 21–055–32183–
3. 102
4. Traverse Corporation
5. Richardson Trust et al #2–18
6. East Bay 18 T26N R10W
7. Grand Traverse, MI
8. 150.0 million cubic feet
9. May 30, 1979
10. Consumers Power Company

1. 79–07059
2. 21–101–32065–
3. 102
4. Traverse Corporation
5. State Manistee #2–25
6. Manistee 25 T22N R17W
7. Manistee, MI
8. 150.0 million cubic feet
9. May 30, 1979
10. Consumers Power Company

1. 79–07060
2. 21–101–31994–
3. 103
4. Traverse Corporation
5. State Wexford 1–8
6. Wexford 5 Sec 8 T24N R12W
7. Wexford, MI
8. 25.0 million cubic feet
9. May 30, 1979
10. Consumers Power Company

1. 79–07061
2. 21–101–31362–
3. 102
4. Traverse Corporation
5. Ziehm 1–30
6. Maple Grove 30 T23N R14W
7. Manistee, MI
8. 1000.0 million cubic feet
9. May 30, 1979
10. Consumers Power Company

1. 79–07062
2. 21–079–32723–
3. 102
4. Traverse Corporation
5. Moriartey et al #1–16
6. Blue Lake 16 T28N R5W
7. Kalkaska, MI
8. 150.0 million cubic feet
9. May 30, 1979
10. Consumers Power Company

1. 79–07063
2. 21–055–32037–
3. 102
4. Traverse Corporation
5. Kinney et al #1–18
6. East Bay 18 T26N R10W
7. Grand Traverse, MI
8. 150.0 million cubic feet
9. May 30, 1979
10. Consumers Power Company

1. 79–07064
2. 21–101–31958–
3. 102
4. Traverse Corporation
5. Federal Land Bank—Marshall Enterpr
6. Cleon 29 T24N R13W
7. Manistee, MI
8. 150.0 million cubic feet
9. May 30, 1979
10. Consumers Power Company

1. 79–07065
2. 21–101–32571–
3. 102
4. Traverse Corporation
5. Coombs et al #3–30
6. Manistee 30 T22N R16W
7. Manistee, MI
8. 150.0 million cubic feet
9. May 30, 1979
10. Consumers Power Company

1. 79–07066
2. 21–101–31899–
3. 102
4. Traverse Corporation
5. Thomas P and Rose M Sobota #1–25
6. Manistee 25 T22N R17W
7. Manistee, MI
8. 150.0 million cubic feet
9. May 30, 1979
10. Consumers Power Company

New Mexico Department of Energy and Minerals Oil Conservation Division

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–07067
2. 30–039–20086–
3. 108
4. El Paso Natural Gas Company
5. San Juan 27–5 Unit #110
6. Basin-Dakota Gas
7. Rio Arriba, NM
8. 25.6 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Co

1. 79–07068
2. 30–045–22838–
3. 103
4. Southland Royalty Co
5. Patterson B Com #1–R
6. Blanco Mesa Verde
7. San Juan, NM
8. 180.0 million cubic feet
9. May 30, 1979
10. Southern Union Gathering

1. 79–07069
2. 30–045–22838–
3. 103
4. Southland Royalty Co
5. Patterson B Com 1 R
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 0.0 million cubic feet
9. May 30, 1979
10. Southern Union Gathering Company

1. 79–07070
2. 30–045–00000–
3. 103
4. Southland Royalty Co
5. Maddox Waller #3
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 70.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79–07071

2. 30-015-22200-
3. 103
4. Southland Royalty Company
5. Featherstone-State Com #1
6. Undesignated (Morrow)
7. Eddy, NM
8. 350.0 million cubic feet
9. May 30, 1979
10. Gas Company of New Mexico

1. 79-07072
2. 30-015-22380-
3. 103
4. Southland Royalty Company
5. State 19 Comm #1
6. Morrow
7. Eddy, NM
8. 150.0 million cubic feet
9. May 30, 1979
10. Natural Gas P/L Co of America

1. 79-07073
2. 30-043-00516-
3. 108
4. BCO Inc
5. State H #2
6. Lybrook Gallup
7. Rio Arriba, NM
8. 9.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79-07074
2. 30-039-05474-
3. 108
4. BCO Inc
5. Escrito Gallup Unit #16 (for State)
6. Escrito Gallup
7. Rio Arriba, NM
8. 4.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79-07075
2. 30-039-05439-
3. 108
4. BCO Inc
5. Escrito Gallup Unit #17
6. Escrito Gallup
7. Rio Arriba, NM
8. 3.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79-07076
2. 30-015-22468-
3. 103
4. Southland Royalty Co
5. State 18 Comm #1
6. So Millman (Strawn)
7. Eddy, NM
8. 250.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79-07077
2. 30-015-22343-
3. 103
4. Southland Royalty Company
5. Palmillio State Comm #2
6. Turkey Track N (Morrow)
7. Eddy, NM
8. 1000.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company

1. 79-07078
2. 30-045-00000-
3. 103
4. Southland Royalty Co
5. Patterson B Com #1
6. Basin Dakota
7. San Juan, NM
8. 75.0 million cubic feet
9. May 30, 1979
10. Southern Union Gathering

1. 79-07079
2. 30-015-22295-
3. 103
4. Southland Royalty Company
5. Parkway State Comm #1
6. Wildcat (Morrow)
7. Eddy, NM
8. 350.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79-07080
2. 30-015-22309-
3. 103
4. Southland Royalty Company
5. Palmillo-State Comm #1
6. Turkey Track in Morrow
7. Eddy, NM
8. 420.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company

1. 79-07081
2. 30-015-22693-
3. 103
4. Southland Royalty Company
5. State 23 Comm #1
6. Wildcat Morrow
7. Eddy, NM
8. 300.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Co

1. 79-07082
2. 30-015-22625-
3. 103
4. Southland Royalty Company
5. State 19 Com #2
6. South Millman (Morrow)
7. Eddy, NM
8. 180.0
9. May 30, 1979
10. Natural Gas P/L Co of America

1. 79-07083
2. 30-025-25441-
3. 103
4. Southland Royalty Company
5. State AR #1 (Morrow)
6. Morrow—Antelope Ridge
7. Lea, NM
8. 60.0 million cubic feet
9. May 30, 1979
10. Gas Company of New Mexico

1. 79-07084
2. 30-025-25563-
3. 103
4. Kern Co
5. Eunice Cooper No 1
6. Jalmat
7. Lea, NM
8. 96.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company

1. 79-07085
2. 30-025-25827-
3. 103
4. Kern Co
5. M L Goins No 1
6. Eumont
7. Lea, NM
8. 78.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company

1. 79-07086
2. 30-015-10810-
3. 108
4. Tenneco Oil Company
5. G J West Coop Unit #45
6. Grayburg Jackson
7. Eddy, NM
8. 3.7 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79-07087
2. 30-015-03039-
3. 108
4. Tenneco Oil Company
5. G J West Coop Unit #28
6. Grayburg-Jackson
7. Eddy, NM
8. 3.7 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79-07088
2. 30-015-03037-
3. 108
4. Tenneco Oil Company
5. G J West Coop Unit #25
6. Grayburg Jackson
7. Eddy, NM
8. 4.1 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79-07089
2. 30-015-10755-
3. 108
4. Tenneco Oil Company
5. G J West Coop Unit #44
6. Grayburg Jackson
7. Eddy, NM
8. 4.3 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79-07090
2. 30-015-02856-
3. 108
4. Tenneco Oil Company
5. G J West Coop Unit #12
6. Grayburg Jackson Queen
7. Eddy, NM
8. 3.4 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79-07091
2. 30-015-03167-
3. 108
4. Tenneco Oil Company
5. G J West Coop Unit #17
6. Grayburg Jackson
7. Eddy, NM
8. 4.4 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79-07092
2. 30-025-01933-
3. 108
4. Tenneco Oil Company
5. Kemnitz Wolfcamp Unit #26
6. Kemnitz Wolfcamp
7. Lea, NM
8. 4.3 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79-07093
2. 30-025-01943-

3. 108
4. Tenneco Oil Company
5. Kemnitz Wolfcamp Unit #23
6. Kemnitz Wolfcamp
7. Lea, NM
8. 9.1 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79–07094
2. 30–015–10756–
3. 108
4. Tenneco Oil Company
5. G J West Coop Unit #18
6. Grayburg Jackson
7. Eddy, NM
8. 4.8 million cubic feet
9. May 30, 1979
10. Phillips Petroleum

1. 79–07095
2. 30–015–03169–
3. 108
4. Tenneco Oil Company
5. G J West Coop Unit #16
6. Grayburg Jackson
7. Eddy, NM
8. 5.6 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79–07096
2. 30–015–03026–
3. 108
4. Tenneco Oil Company
5. GJ West Coop Unit #30
6. Grayburg Jackson
7. Eddy NM
8. 3.8 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79–07097
2. 30–015–20110–
3. 108
4. Tenneco Oil Company
5. GJ West Coop Unit #57
6. Grayburg Jackson
7. Eddy NM
8. 3.9 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79–07098
2. 30–015–03035–
3. 108
4. Tenneco Oil Company
5. GJ West Coop Unit #42
6. Grayburg Jackson
7. Eddy NM
8. 3.9 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79–07099
2. 30–045–11775–
3. 108
4. Tenneco Oil Company
5. State Com LL No. 12
6. Blanco Picture Cliff
7. San Juan NM
8. 15.0 million cubic feet
9. May 30, 1979
10. El Paso Natural Gas Company

1. 79–07100
2. 30–015–03038–
3. 108
4. Tenneco Oil Company
5. GJ West Coop Unit #27
6. Grayburg Jackson
7. Eddy NM
8. 4.4 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79–07101
2. 30–015–10797–
3. 108
4. Tenneco Oil Company
5. GJ West Coop Unit #23
6. Grayburg Jackson
7. Eddy NM
8. 4.6 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79–07102
2. 30–015–03036–
3. 108
4. Tenneco Oil Company
5. GJ West Coop Unit #26
6. Grayburg Jackson
7. Eddy NM
8. 3.5 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79–07103
2. 30–041–10611–
3. 108
4. Tenneco Oil Company
5. State V #4
6. Chaveroo San Andres
7. Roosevelt NM
8. 1.0 million cubic feet
9. May 30, 1979
10. Cities Service Oil Company

1. 79–07104
2. 30–015–03171–
3. 108
4. Tenneco Oil Company
5. GJ West Coop Unit #8
6. Grayburg Jackson
7. Eddy NM
8. 2.0 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79–07105
2. 30–015–03173–
3. 108
4. Tenneco Oil Company
5. GJ West Coop Unit #4
6. Grayburg Jackson
7. Eddy NM
8. 4.0 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

1. 79–07106
2. 30–025–01277–
3. 108
4. Tenneco Oil Company
5. Kemnitz Wolfcamp Unit #19
6. Kemnitz Wolfcamp
7. Lea NM
8. 4.2 million cubic feet
9. May 30, 1979
10. Phillips Petroleum Company

Ohio Department of Natural Resources

Division of Oil and Gas

1. Control Number (F.E.R.C./State)
2. API Well No.
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79–07174
2. 34–157–21794–0014–
3. 108
4. Zenith Exploration Company
5. George Rasche Jr #1
6.
7. Tuscarawas OH
8. 10.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–07175
2. 34–121–21799–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 8E
6.
7. Noble OH
8. 10.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–07176
2. 34–133–21637–0014–
3. 103
4. Inland Drilling Co Inc
5. Windmill Enterprises #1 #1637
6.
7. Portage OH
8. 17.4 million cubic feet
9. May 24, 1979
10.

1. 79–07177
2. 34–031–22126–0014–
3. 108
4. Lew Bates Jr
5. Steffee #1
6.
7. Coshocton OH
8. 3.5 million cubic feet
9. May 30, 1979
10. Columbia Gas Transmission Corp

1. 79–07178
2. 34–075–21925–0014–
3. 108
4. Buckeye Oil Producing Co
5. Hanna #1
6.
7. Holmes OH
8. 4.0 million cubic feet
9. May 30, 1979
10. Columbia Gas Transmission Corp

1. 79–07179
2. 34–075–21808–0014–
3. 108
4. Buckeye Oil Producing Co
5. Bowen #1
6.
7. Holmes OH
8. 10.0 million cubic feet
9. May 30, 1979
10. Columbia Gas Transmission Corp

1. 79–07180
2. 34–075–21854–0014–
3. 108
4. Buckeye Oil Producing Co
5. Wolgamot 31 #1
6.
7. Holmes OH
8. 11.0 million cubic feet
9. May 30, 1979
10. Columbia Gas Transmission Corp

1. 79-07181
2. 34-075-21819-0014-
3. 108
4. Buckeye Oil Producing Co
5. Holmes County Infirmary #1-A
6.
7. Holmes OH
8. 5.0 million cubic feet
9. May 30, 1979
10. Columbia Gas Transmission Corp

1. 79-07182
2. 34-075-21871-0014-
3. 108
4. Buckeye Oil Producing Co
5. Holmes County Infirmary #2
6.
7. Holmes OH
8. 5.0 million cubic feet
9. May 30, 1979
10. Columbia Gas Transmission Corp

1. 79-07183
2. 34-075-21842-0014-
3. 108
4. Buckeye Oil Producing Co
5. Wengerd #1
6.
7. Holmes OH
8. 4.0 million cubic feet
9. May 30, 1979
10. Columbia Gas Transmission Corp

1. 79-07184
2. 34-075-21624-0014-
3. 108
4. Buckeye Oil Producing Co
5. Wengerd #2
6.
7. Holmes OH
8. 4.0 million cubic feet
9. May 30, 1979
10. Columbia Gas Transmission Corp

1. 79-07185
2. 34-075-21911-0014-
3. 108
4. Buckeye Oil Producing Co
5. Close #6
6.
7. Holmes OH
8. 5.0 million cubic feet
9. May 30, 1979
10. Columbia Gas Transmission Corp

1. 79-07186
2. 34-075-21888-0014-
3. 108
4. Buckeye Oil Producing Co
5. Holmes County Infirmary #3
6.
7. Holmes OH
8. 5.0 million cubic feet
9. May 30, 1979
10. Columbia Gas Transmission Corp

1. 79-07187
2. 34-075-21583-0014-
3. 108
4. Buckeye Oil Producing Co
5. Harley Jones #1
6.
7. Holmes OH
8. 6.0 million cubic feet
9. May 30, 1979
10. Columbia Gas Transmission Corp

1. 79-07188
2. 34-151-21076-0014-
3. 108
4. K-Vill Oil & Gas
5. Eavers #1 (Brett)
6.
7. Stark OH
8. 5.5 million cubic feet
9. May 30, 1979
10. East Ohio Gas Company

1. 79-07189
2. 34-157-22178-0014-
3. 108
4. Resource Exploration Inc
5. Young #1
6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79-07190
2. 34-157-22194-0014-
3. 108
4. Resource Exploration Inc
5. Krebs #1
6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79-07191
2. 34-157-22183-0014-
3. 108
4. Resource Exploration Inc
5. Troyer #23
6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79-07192
2. 34-157-22179-0014-
3. 108
4. Resource Exploration Inc
5. Zimmerman #2
6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79-07193
2. 34-157-22182-0014-
3. 108
4. Resource Exploration Inc
5. Zimmerman #4
6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79-07194
2. 34-157-22200-0014-
3. 108
4. Resource Exploration Inc
5. Young #3
6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79-07195
2. 34-157-22193-0014-
3. 108
4. Resource Exploration Inc
5. Miller #29
6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79-07196
2. 34-157-22208-0014-
3. 108
4. Resource Exploration Inc
5. Yoder #16
6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79-07197
2. 34-157-22209-0014-
3. 108
4. Resource Exploration Inc
5. Ott #1
6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79-07198
2. 34-157-21865-0014-
3. 108
4. Resource Exploration Inc
5. Miller #8
6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79-07199
2. 34-157-22191-0014-
3. 108
4. Resource Exploration Inc
5. Pepper #1
6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79-07200
2. 34-157-22203-0014-
3. 108
4. Resources Exploration Inc
5. Scarr #1
6.
7. Tuscarawas OH
8. 7.5 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79-07201
2. 34-169-21093-0014-
3. 108
4. The Oxford Oil Co
5. J. D. Graber #A-2
6.
7. Wayne OH
8. 2.0 million cubic feet
9. May 30, 1979
10. Columbia Gas Trans Corp

1. 79-07202
2. 34-099-20055-0014-
3. 108
4. E. K. McIntosh
5. McIntosh Dunn #1
6.
7. Mahoning OH
8. 11.9 million cubic feet
9. May 30, 1979
10. Columbia Gas Transmission Corp

1. 79-07203

2. 34–157–21613–0014–
3. 108
4. Appalachian Exploration Inc
5. Singer No. 1
6.
7. Tuscarawas OH
8. 15.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07204
2. 34–157–21394–0014–
3. 108
4. Appalachian Exploration Inc
5. Simpson No. 2
6.
7. Tuscarawas OH
8. 6.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07205
2. 34–157–21395–0014–
3. 108
4. Appalachian Exploration Inc
5. Simpson No. 1
6.
7. Tuscarawas OH
8. 5.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07206
2. 34–157–21403–0014–
3. 108
4. Appalachian Exploration Inc
5. Ross Clay No. 3
6.
7. Tuscarawas OH
8. 15.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07207
2. 34–157–21404–0014–
3. 108
4. Appalachian Exploration Inc
5. Ross Clay No. 2
6.
7. Tuscarawas OH
8. 15.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07208
2. 34–157–21401–0014–
3. 108
4. Appalachian Exploration Inc
5. Ross Clay No. 1
6.
7. Tuscarawas OH
8. 15.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07209
2. 34–059–21144–0014–
3. 108
4. Appalachian Exploration Inc
5. H Ringer No. 1
6. NA
7. Guernsey OH
8. 10.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07210
2. 34–157–21296–0014–
3. 108
4. Appalachian Exploration Inc
5. Rank-Unit No. 1
6.
7. Tuscarawas OH
8. 13.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07211
2. 34–157–21295–0014–
3. 108
4. Appalachian Exploration Inc
5. Rank No. 2
6.
7. Tuscarawas OH
8. 7.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07212
2. 34–157–21294–0014–
3. 108
4. Appalachian Exploration Inc
5. Rank No. 1
6.
7. Tuscarawas OH
8. 7.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07213
2. 34–157–21846–0014–
3. 108
4. Appalachian Exploration Inc
5. Porter No. 1
6.
7. Tuscarawas OH
8. 9.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07214
2. 3–157–21642–0014–
3. 108
4. Appalachian Exploration Inc
5. Peter-Everhardt No. 1
6.
7. Tuscarawas OH
8. 7.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07215
2. 34–159–21131–0014–
3. 108
4. Appalachian Exploration Inc
5. J Reilley No. 1
6.
7. Guernsey OH
8. 9.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07216
2. 34–157–21623–0014–
3. 108
4. Appalachian Exploration Inc
5. Meredith No. 1
6.
7. Tuscarawas OH
8. 10.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07217
2. 34–059–21145–0014–
3. 108
4. Appalachian Exploration Inc
5. McConaughy No. 1
6.
7. Guernsey OH
8. 7.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07218
2. 34—127–24133–0014–
3. 103
4–. L & M Exploration
5. Moore 2S
6.
7. Perry OH
8. 4.4 million cubic feet
9. May 30, 1979
10. Foraker Gas Company

1. 79–07219
2. 34–127–24018–0014–
3. 103
4. L & M Exploration
5. Fred Reed-Masterson No. 1
6.
7. Perry OH
8. 3.0 million cubic feet
9. May 30, 1979
10. Foraker Gas Company

1. 79–07220
2. 34–127–23745–0014–
3. 103
4. L&M Exploration Inc
5. Coffman No. 1
6.
7. Perry OH
8. 2.0 million cubic feet
9. May 30, 1979
10. Foraker Gas Company

1. 79–07221
2. 34–127–23951–0014–
3. 103
4. L&M Exploration
5. Epifano No. 1
6.
7. Perry OH
8. 5.5 million cubic feet
9. May 30, 1979
10. Foraker Gas Company

1. 79–07222
2. 34–005–23180–0014–
3. 103
4. L&M Exploration
5. VOGT No. 1
6.
7. Ashland OH
8. 21.9 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co

1. 79–07223
2. 34–019–20852–0014–
3. 103
4. Belden & Blake and Co L P No. 70
5. Whitacre-Greer #29–755
6.
7. Carroll OH
8. 10.0 million cubic feet
9. May 30, 1979
10. Whitacre-Greer

1. 79–07224
2. 34–127–24290–0014–
3. 103
4. National Production Corporation
5. Mary Cotterman #1
6.
7. Perry OH
8. .0 million cubic feet
9. May 30, 1979
10. National Gas & Oil Corporation

1. 79–07225
2. 34–031–23282–0014–

3. 103
4. Ralph H Hamblin
5. Ralph H Hamblin—#1 Rich
6.
7. Coshocton OH
8. 14.0 million cubic feet
9. May 30, 1979
10.

1. 79–07226
2. 34–093–21066–0014–
3. 103
4. Phillips Energy Corporation
5. Grafton Honor Farm #3
6.
7. Lorain OH
8. 25.0 million cubic feet
9. May 30, 1979
10.

1. 79–07227
2. 34–157–22930–0014–
3. 103
4. MB Operating Co Inc
5. R Reel #1
6.
7. Tuscarawas OH
8. 23.4 million cubic feet
9. May 30, 1979
10. East Ohio Gas Co, Republic Steel Corp. and Columbia Gas Co

1. 79–07228
2. 34–093–21090–0014–
3. 103
4. Inland Drilling Co Inc
5. Demyan #1 #1090
6.
7. Lorain OH
8. 1.5 million cubic feet
9. May 30, 1979
10.

1. 79–07229
2. 34–155–20718–0014–
3. 103
4. Ohio Oil and Gas
5. Catchpole #1
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. May 30, 1979
10. Aluminum Billets Inc

1. 79–07230
2. 34– 099–21118–0014–
3. 103
4. Rowley & Brown Petroleum Corp
5. Arn #1
6.
7. Mahoning OH
8. 27.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas

1. 79–07231
2. 34– 099–21136–0014–
3. 103
4. Rowley & Brown Petroleum Corp
5. C Neff #1
6.
7. Mahoning OH
8. 27.0 million cubic feet
9. May 30, 1979
10. East Ohio Gas Company

1. Control Number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–06985
2. 47–033–21172–
3. 103
4. Petroleum Development Corp
5. Patton-Steele #2
6. Bridgeport
7. Harrison, WV
8. 49.5 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79–06986
2. 47–033–21171–
3. 103
4. Petroleum Development Corp
5. J J Horner #2
6. Bridgeport
7. Harrison, WV
8. 59.3 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79–06987
2. 47–033–21140–
3. 103
4. Petroleum Development Corp
5. Patton-Lang #2
6. Glade Run
7. Harrison, WV
8. 9.4 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79–06988
2. 47–033–21139–
3. 103
4. Petroleum Development Corp
5. Johnson-Lang #2
6. Glade Run
7. Harrison, WV
8. 40.5 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79–06989
2. 47–033–21115–
3. 103
4. Petroleum Development Corp
5. Faris Heirs #9
6. Bridgeport
7. Harrison, WV
8. 43.3 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79–06990
2. 47–001–20947–
3. 103
4. Petroleum Development Corp
5. G A Lodge #1
6. Elk Creek
7. Barbour, WV
8. 10.0 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79–06991
2. 47–033–21187–
3. 103
4. Petroleum Development Corp
5. Bernard Cork #2
6. Glade Run
7. Harrison, WV
8. 27.4 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79–06992
2. 47–001–20904–
3. 103
4. Petroleum Development Corp
5. T Woodford #1
6. Taylor Drain
7. Barbour, WV
8. 20.0 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79–06993
2. 47–085–20140–
3. 103
4. Petroleum Development Corp
5. William Smoth #1
6. Pruntytown
7. Taylor, WV
8. 69.5 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79–06994
2. 47–033–21199–
3. 103
4. Petroleum Development Corp
5. V Haymond #1
6. Bridgeport
7. Harrison, WV
8. 47.0 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79–06995
2. 47–041–22161–
3. 103
4. Petroleum Development Corp
5. A W Hall #2
6. Weston-Jane Lew
7. Lewis, WV
8. 30.0 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79–06996
2. 47–041–22160–
3. 103
4. Petroleum Development Corp
5. A W Hall #1
6. Weston-Jane Lew
7. Lewis, WV
8. 25.5 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79–06997
2. 47–085–23055–
3. 108
4. Harcon Oil & Gas Co.
5. Gemini Dev Co Sheets #2
6. Union
7. Ritchie, WV
8. 2.4 million cubic feet
9. May 25, 1979
10. Equitable Gas Co

1. 79–06998
2. 47–085–23128–
3. 108
4. Harcon Oil & Co
5. Tuferhofi Development Co (Well #1)
6. Union
7. Ritchie, WV
8. 4.4 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. 79–06999
2. 47–085–23130–

3. 108
4. Harcon Oil & Gas Co
5. Tuferhofi Development Co (Well #2)
6. Union
7. Ritchie, WV
8. 4.4 million cubic feet
9. May 25, 1979
10. Equitable Gas Co

1. 79-07000
2. 47-085-23156-
3. 108
4. Harcon Oil & Gas Co
5. Bear Run Development Co (Well #1)
6. Union
7. Ritchie, WV
8. 2.1 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. 79-07001
2. 47-085-23170-
3. 108
4. Harcon Oil & Gas Co
5. Rainbow Valley Dev Co Sheets #1
6. Union
7. Ritchie, WV
8. 3.1 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. 79-07002
2. 47-085-23172-
3. 108
4. Harcon Oil & Gas Co
5. Rainbow Valley Dev Co Sheets #2
6. Union
7. Ritchie, WV
8. 3.1 million cubic feet
9. May 25, 1979
10. Equitable Gas Co

1. 79-07003
2. 47-085-23176-
3. 108
4. Harcon Oil & Gas Co
5. Bear Run Development Co (Well #2)
6. Union
7. Ritchie, WV
8. 2.1 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. 79-07004
2. 47-085-23317-
3. 108
4. Harcon Oil & Gas Co
5. Snoopy Dev Co
6. Grant
7. Ritchie, WV
8. 7.4 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79-07005
2. 47-085-23337-
3. 108
4. Harcon Oil & Gas Co
5. Shooting Star Dev Co Well #1
6. Grant
7. Ritchie, WV
8. 3.6 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79-07006
2. 47-085-23362-
3. 108
4. Harcon Oil & Gas Co
5. Shooting Star Dev Co Series 2
6. Grant
7. Ritchie, WV
8. 2.3 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79-07007
2. 47-017-21534-
3. 108
4. Harcon Oil & Gas Co
5. Tamiami Development Co (Well #2)
6. Southwest
7. Doddridge
8. 5.2 million cubic feet
9. May 25, 1979
10. Equitable Gas Co

1. 79-07008
2. 47-085-21912-
3. 108
4. Harcon Oil & Co
5. Bone Creek Dev Co Well #3
6. Union
7. Ritchie, WV
8. 1.3 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79-07009
2. 47-085-22270-
3. 108
4. Harcon Oil & Gas Co
5. Laurel Run Development Co #2
6. Union
7. Ritchie, WV
8. 3.9 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. 79-07010
2. 47-021-21675-
3. 108
4. Harcon Oil & Gas Co
5. Optimistic Oil & Gas Co—Well #1
6. Troy
7. Gilmer, WV
8. 1.4 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. 79-07011
2. 47-021-21693-
3. 108
4. Harcon Oil & Gas Co
5. Optimistic Oil & Gas Co—Well #2
6. Troy
7. Gilmer, WV
8. 1.4 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. 79-07012
2. 47-021-21738-
3. 108
4. Harcon Oil & Gas Co
5. Lone Star Development Co Well #1
6. Troy
7. Gilmer, WV
8. 2.4 million cubic feet
9. May 25, 1979
10. Equitable Gas Co

1. 79-07013
2. 47-021-21764-
3. 108
4. Harcon Oil & Gas Co
5. Lone Star Development Co Well #2
6. Troy
7. Gilmer, WV
8. 2.4 million cubic feet
9. May 25, 1979
10. Equitable Gas Co

1. JD79-07014
2. 47-085-20608
3. 108
4. Harcon Oil & Gas Co
5. Spruce Creek Dev Co—Phillips Well
6. Union
7. Ritchie, WV
8. 1.5 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. JD79-07015
2. 47-085-21725
3. 108
4. Harcon Oil & Gas Co
5. Staunton Dev. Co.—Well #1
6. Murphy
7. Ritchie WV
8. 2.2 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp.

1. JD79-07016
2. 47-085-21882-
3. 108
4. Harcon Oil & Gas Co
5. Bone Creek Dev Co Well #2
6. Union
7. Ritchie County WV
8. 1.3 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. JD79-07017
2. 47-085-21737-
3. 108
4. Harcon Oil & Gas Co
5. Staunton Development Co.—Well #2
6. Murphy
7. Ritchie WV
8. 2.2 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79-07018
2. 47-085-22386-
3. 108
4. Harcon Oil & Gas Co
5. Old Orchard Oil & Gas Co.—Well #1
6. Union
7. Ritchie WV
8. 1.3 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79-07019
2. 47-085-22730-
3. 108
4. Harcon Oil & Gas Co
5. Hickory Knob Dev Co No 2 Well #3
6. Union
7. Ritchie WV
8. 1.1 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79-07020
2. 47-085-22540-
3. 108
4. Harcon Oil & Gas Co
5. Hickory Knob Dev Co Well #1
6. Union
7. Ritchie WV
8. 1.3 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79-07021
2. 47-085-23030-
3. 108
4. Harcon Oil & Gas Co

5. Gemini Dev Co Sheets #1
6. Union
7. Ritchie WV
8. 2.4 million cubic feet
9. May 25, 1979
10. Equitable Gas Co

1. 79–07022
2. 47–097–21179–
3. 108
4. Harcon Oil & Gas Co
5. Zambee Dev Co Johnston #1
6. Buckhannon
7. Upshur WV
8. 5.2 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. 79–07023
2. 47–097–21225–
3. 108
4. Harcon Oil & Gas Co
5. Moonstrike Development Co
6. Buckhannon
7. Upshur WV
8. 3.7 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. 79–07024
2. 47–085–22558–
3. 108
4. Harcon Oil & Gas Co
5. Hickory Knob Dev Co Well 2
6. Union
7. Richie WV
8. 1.1 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79–07025
2. 47–001–00806–
3. 103
4. Consolidated Gas Supply Corporation
5. Maryland Ketchem 12173
6. W VA other A–85772
7. Barbour WV
8. 43.0 million cubic feet
9. May 25, 1979
10. General System Purchasers

1. 79–07026
2. 47–033–01124–
3. 103
4. Consolidated Gas Supply Corporation
5. F W Cunningham 12298
6. W VA other A–85772
7.
8. 48.0 million cubic feet
9. May 25, 1979
10. General System Purchasers

1. 79–07027
2. 47–019–00302–
3. 103
4. Consolidated Gas Supply Corporation
5. Vanetta Land 12113
6. W VA other A–85772
7. Fayette WV
8. 38.0 million cubic feet
9. May 25, 1979
10. General System Purchasers

1. 79–07028
2. 47–019–00307–
3. 103
4. Consolidated Gas Supply Corporation
5. Vanetta Land 12114
6. W VA other A–85772
7. Fayette WV
8. 52.0 million cubic feet
9. May 25, 1979
10. General System Purchasers

1. 79–07029
2. 47–019–00300–
3. 103
4. Consolidated Gas Supply Corporation
5. Vanetta Land 12140
6. W VA other A–85772
7. Fayette WV
8. 23.0 million cubic feet
9. May 25, 1979
10. General System Purchasers

1. 79–07030
2. 47–045–00953–
3. 103
4. Consolidated Gas Supply Corporation
5. Boone County Coal 12148
6. W VA other A–85772
7. Logan WV
8. 40.0 million cubic feet
9. May 25, 1979
10. General System Purchasers

1. 79–07031
2. 47–045–00954–
3. 103
4. Consolidated Gas Supply Corporation
5. Boone County Coal 12163
6. W VA other A–85772
7. Logan WV
8. 158.0 million cubic feet
9. May 25, 1979
10. General System Purchasers

1. 79–07032
2. 47–007–01236–
3. 103
4. Stonestreet Lands Company
5. Atrain Kendall #3
6. Elmira
7. Braxton WV
8. 14.4 million cubic feet
9. May 25, 1979
10. Columbia Gas Transmission Corp

1. 79–07033
2. 47–015–01559–
3. 103
4. Stonestreet Lands Company
5. Sylvia Tucker #1
6. Elmira
7. Clay WV
8. 38.4 million cubic feet
9. May 25, 1979
10. Columbia Gas Transmission Corp

1. 79–07034
2. 47–085–22004–
3. 108
4. Harcon Oil & Gas Co
5. Brushy Fork Development Co
6. Union
7. Ritchie WV
8. 3.2 million cubic feet
9. May 25, 1979
10. Equitable Gas Co

1. 79–07035
2. 47–085–22101–
3. 108
4. Harcon Oil & Gas Co
5. Auburn Development Co
6. Union
7. Ritchie WV
8. 2.9 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. 79–07036
2. 47–017–21340–
3. 108
4. Harcon Oil & Gas Co
5. Mesabi Dev Co Wilson #1
6. Southwestern
7. Doddridge WV
8. 10.1 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. 79–07037
2. 47–017–21500–
3. 108
4. Harcon Oil & Gas Co
5. Starlight Dev Co No 3 (Adams #3)
6. Southwest
7. Doddridge WV
8. 5.7 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. 79–07038
2. 47–017–21512–
3. 108
4. Harcon Oil & Gas Co
5. Starlight Dev Co No 5 (Adams #5)
6. Southwest
7. Doddridge WV
8. 6.9 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. 79–07039
2. 47–017–21517–
3. 108
4. Harcon Oil & Gas Co
5. Starlight Dev Co No 6 (Adams #6)
6. Southwest
7. Doddridge WV
8. 6.9 million cubic feet
9. May 25, 1979
10. Equitable Gas

1. 79–07040
2. 47–041–02157–
3. 103
4. NRM Petroleum Corporation
5. Brown #1
6. Hackers Creek
7. Lewis WV
8. 18.0 million cubic feet
9. May 25, 1979
10. Consolidated Gas Supply Corp

1. 79–07041
2. 47–097–01733–
3. 103
4. NRM Petroleum Corporation
5. Demastes #1
6. Meade
7. Upshur WV
8. 36.0 million cubic feet
9. May 25, 1979
10. Columbia Gas Corp

1. 79–07042
2. 47–097–01734–
3. 103
4. NRM Petroleum Corp
5. Roby #1
6. Meade
7. Upshur WV
8. 45.0 million cubic feet
9. May 25, 1979
10. Columbia Gas Transmission Corp

1. 79–07043
2. 47–015–01303–
3. 103
4. Sterling Drilling & Prod Co Inc
5. The Pittston #1

6. Buffalo District
7. Clay County WV
8. 37.8 million cubic feet
9. May 25, 1979
10. Equitable Gas Co

1. 79–07044
2. 47–067–00424–
3. 103
4. Consolidated Gas Supply Corporation
5. L S Scharper 12344
6. W VA other A–85772
7. Nicholas WV
8. 89.0 million cubic feet
9. May 25, 1979
10. General System Purchasers

1. 79–07045
2. 47–015–01304–
3. 103
4. Sterling Drill & Prod Co Inc
5. Carl Ramsey #1
6. Buffalo District
7. Clay County WV
8. 94.5 million cubic feet
9. May 25, 1979
10. Equitable Gas Co

Wyoming Oil and Gas Conservation Commission

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–07048
2. 49–037–21208–
3. 107
4. Texaco Inc
5. Table Rock Unit Well No. 36
6. Table Rock
7. Sweetwater WY
8. 1530.0 million cubic feet
9. May 24, 1979
10. Colorado Interstate Gas Company

1. 79–07049
2. 49–037–20718–
3. 102
4. Davis Oil Company
5. North Sheep Camp 1
6. Sheep Camp Field
7. Sweetwater WY
8. 90.0 million cubic feet
9. May 24, 1979
10. Panhandle Eastern Pipe Line Company

1. 79–07050
2. 49–037–20716–
3. 102
4. Davis Oil Company
5. South Sheep Camp #1
6. Sheep Camp Field
7. Sweetwater WY
8. 90.0 million cubic feet
9. May 24, 1979
10. Panhandle Eastern Pipe Line Company

1. 79–07051
2. 49–019–20431–
3.102
4. Davis Oil Company
5. Heldt Draw #47
6. Table Mountain Field
7. Johnson WY
8. 18.6 Million cubic feet
9. May 24, 1979
10. Phillips Petroluem Company

1. 79–07052
2. 49–005–24955–
3. 103
4. Davis Oil Company
5. Deaver #1
6. Jayson
7. Campbell WY
8. 72.0 million cubic feet
9. May 24, 1979
10. Phillips Petroleum Company

1. 79–07053
2. 49–037–20905–
3. 102
4. Champlin Petroleum Company
5. #2 UPRR 4–31
6. Wamsutter
7. Sweetwater WY
8. 4143.0 million cubic feet
9. May 24, 1979
10. Colo Int Gas Co

1.79–07054
2. 49–037–21164–
3. 102
4. Champlin Petroleum Company
5. #3 UPRR 3–3
6. Wamsutter
7. Sweetwater WY
8. 1100.0 million cubic feet
9. May 24, 1979
10 Colo Int Gas Co

1. 79–08055
2. 49–019–20334–
3. 103
4. Southland Royalty Company
5. State of Wyoming #1–16
6. Holler Draw
7. Johnson WY
8. 7.2 million cubic feet
9. May 24, 1979
10. Phillips Petroleum Company Panhandle Eastern Pipeline Co

1. 79–07056
2. 49–005–24690–
3. 103
4. Southland Royalty Company
5. John Christensen #1–33
6. Hartzog Draw
7. Campbell WY
8. 23.6 million cubic feet
9. May 24, 1979
10. Panhandle Eastern Pipeline Company

1. 79–07057
2. 49–029–06039–
3. 108
4. Phillips Petroleum Company
5. Danker–A No 1
6. Big Pole Cat
7. Park WY
8. 18.0 million cubic feet
9. May 24, 1979
10. Frannie-Deaver utilities

U.S. Geological Survey, Metairie, La.

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

4. C & K Marine Production Company
5. OCS–G–1960 No. A–3
6. South Timbalier
7. 148
8. 1300.0 Million cubic feet
9. May 25, 1979
10. Transcontinental Gas Pipeline Corp

1. 79–07107
2. 17–706–40226–0000–0
3. 102
4. Texas Gas Exploration Corp
5. Texas Gas Exploration Corp #F–7 Wel
6. Vermilion SA
7. S/2 267
8. 592.0 Million cubic feet
9. May 30, 1979
10. Texas Gas Transmission Corp

1. 79–07108
2. 17–700–40259–0000–0
3. 102
4. Union Oil Company of California
5. OCS–G 2833 No. A–3
6. West Cameron
7. 237
8. 1825.0 million cubic feet
9. May 30, 1979
10. Texas Gas Transmission Corp

1. 79–07110
2. 17–706–40203–0000–0
3. 102
4. Texas Gas Exploration Corp
5. Texas Gas Expl Corp #F–1–A Well
6. Vermilion SA
7. S/2 267
8. 200.0 million cubic feet
9. May 30, 1979
10. Texas Gas Transmission Corp

1. 79–07111
2. 17–706–40219–0000–0
3. 102
4. Texas Gas Exploration Corp
5. Texas Gas Expl Corp #F–5–A
6. Vermilion SA
7. S/2 267
8. 700.0 million cubic feet
9. May 30, 1979
10.

1. 79–07112
2. 17–706–40214–0000–0
3. 102
4. Texas Gas Exploration Corp
5. Texas Gas Expl Corp #F–6–B Well
6. Vermilion SA
7. S/2 267
8. 600.0 million cubic feet
9. May 30, 1979
10. Texas Gas Transmission Corp

1. 79–07113
2. 17–705–40229–0000–0
3. 102
4. Chevron, USA Inc
5. OCS–G–2076 #B–7
6. Vermilion
7. 214
8. 10.0 million cubic feet
9. May 30, 1979
10. Natural Gas Pipeline Co of America

1. 79–07114
2. 17–706–40237–0000–0
3. 102

4. Texas Gas Exploration Corp
5. Texas Gas Expl Corp #F-3-A Well
6. Vermilion SA
7. S/2 267
8. 356.0 million cubic feet
9. May 30, 1979
10. Texas Gas Transmission Corp

1. 79-07116
2. 17-706-40215-0000-0
3. 102
4. CNG Producing Company
5. A-4D1
6. Vermilion
7. 313
8. 1302.0 million cubic feet
9. May 30, 1979
10. Consolidated Gas Supply Corp

1. 79-07117
2. 17-706-40320-0000-0
3. 102
4. Marathon Oil Company
5. Vermilion Block 331 Well 14D
6. Vermilion
7. 331
8. 141.0 million cubic feet
9. May 30, 1979
10. Texas Eastern Transmission Corp

1. 79-07118
2. 17-709-40314-0000-0
3. 102
4. Marathon Oil Company
5. Eugene Island Block 57 Well 38-10
6. Eugene Island
7. 38
8. 5475.0 million cubic feet
9. May 30, 1979
10. Natural Gas Pipeline Co of America, United Gas Pipeline Co., Southern Natural Gas Co., Arkansas Louisiana Gas Co.

1. 79-07120
2. 17-710-40047-0000-0
3. 102 Denied
4. Forst Oil Corporation
5. Eugene Island Block 307 E-2-A
6. Eugene Island
7. 307
8. 454.0 million cubic feet
9. May 30, 1979
10. Columbia Gas Transmission Corporation, Consolidated Gas Supply Corp., Texas Gas Transmission Corp.

1. 79-07121
2. 17-706-40245-0000-0
3. 102
4. CNG Producing Company
5. F-9A
6. Vermilion
7. S/2 267
8. 740.0 million cubic feet
9. May 30, 1979
10. Consolidated Gas Supply Corp

1. 79-07122
2. 17-706-40220-0000-0
3. 102
4. Marathon Oil Company
5. Vermilion Block 331 Well A-2
6. Vermilion
7. 331
8. 1375.0 million cubic feet
9. May 30, 1979
10. Texas Eastern Transmission Corp

1. 79-07123
2. 17-706-40221-0000-0
3. 102
4. CNG Producing Company
5. A-12D2
6. Vermilion
7. 313
8. 753.0 million cubic feet
9. May 30, 1979
10. Consolidated Gas Supply Corp

1. 79-07124
2. 17-709-40339-0000-0
3. 102
4. Marathon Oil Company
5. Eugene Island Block 57 Well 38-14
6. Eugene Island
7. 38
8. 5475.0 million cubic feet
9. May 30, 1979
10. Natural Gas Pipeline Co of America, United Gas Pipeline Co., Southern Natural Gas Co., Arkansas Louisiana Gas Co.

1. 79-07125
2. 17-724-40121-0000-0
3. 102
4. Chevron USA Inc
5. OCS-G-1649 #B-7
6. Main Pass
7. 237
8. 278.0 million cubic feet
9. May 30, 1979
10. Southern Natural Gas Co

1. 79-07126
2. 17-724-40115-0000-0
3. 102
4. Chevron USA Inc
5. OCS-G-1649 #B-3
6. Main Pass
7. 237
8. 18.6 million cubic feet
9. May 30, 1979
10. Southern Natural Gas Co

1. 79-07127
2. 17-706-40216-0000-0
3. 102
4. Marathon Oil Company
5. Vermilion Block 331 Well A-1
6. Vermilion
7. 331
8. 326.0 million cubic feet
9. May 30, 1979
10. Texas Eastern Transmission Corp

1. 79-07128
2. 17-711-40441-0000-0
3. 102
4. Kerr-McGee Corporation
5. OCS-0346 Well No. 34
6. Ship Shoal
7. 28
8. 1770.0 million cubic feet
9. May 30, 1979
10. Transcontinental Gas Pipeline Corp

1. 79-07129
2. 17-706-40244-0000-0
3. 102
4. CNG Producing Company
5. A-10S1
6. Vermilion
7. 313
8. 1149.0 Million cubic feet
9. May 30, 1979
10. Consolidated Gas Supply Corp

1. 79-07131
1. 79-07130
2. 17-706-40228-0000-0
3. 102
4. Marathon Oil Company
5. Vermilion Block 331 Well A-3
6. Vermilion
7. 331
8. 497.0 million cubic feet
9. May 30, 1979
10. Texas Eastern Transmission Corp

2. 17-719-40116-0000-0
3. 107
4. Marathon Oil Company
5. B-19
6. WFST Delta
7. 79
8. 140.0 Million cubic feet
9. May 30, 1979
10. Gulf Oil Corporation

1. 79-07132
2. 17-709-40252-0000-0
3. 102
4. Marathon Oil Company
5. Eugene Island 57 Well 38-3
6. Eugene Island
7. 38
8. 5475.0 Million cubic feet
9. May 30, 1979
10. Natural Gas Pipeline Co. of America, United Gas Pipeline Co., Southern Natural Gas Co., Arkansas Louisiana Gas Co.

1. 79-07133
2. 17-706-40320-0000-0
3. 102
4. Marathon Oil Company
5. Vermilion Block 331 Well A-14
6. Vermilion
7. 331
8. 223.0 Million cubic feet
9. May 30, 1979
10. Texas Eastern Transmission Corp.

1. 79-07134
2. 17-706-40218-0000-0
3. 102
4. CNG Producing Company
5. A-11S1
6. Vermilion
7. 313
8. 605.0 million cubic feet
9. May 30, 1979
10. Consolidated Gas Supply Corp.

1. 79-07135
2. 17-706-40215-0000-0
3. 102
4. CNG Producing Company
5. A-4D2
6. Vermilion
7. 313
8. 614.0 million cubic feet
9. May 30, 1979
10. Consolidated Gas Supply Corp.

1. 79-07136
2. 17-706-40208-0000-0
3. 102
4. CNG Producing Company
5. A-9S1
6. Vermilion
7. 313
8. 952.0 million cubic feet
9. May 30, 1979
10. Consolidated Gas Supply Corp.

1. 79-07137
2. 17-712-40199-0000-0
3. 102
4. Placid Oil Company
5. OCS-G-3170 No. A-23
6. Ship Shoal SA
7. 290

8. 20.0 million cubic feet
9. May 30, 1979
10. Michigan Wisconsin Pipeline Co.

1. 79–07138
2. 17–710–40653–0000–0
3. 102
4. Forest Oil Corporation
5. Eugene Island Block 292 B–9–D
6. Eugene Island
7. 292
8. 1600.0 million cubic feet
9. May 30, 1979
10. Columbia Gas Transmission Corp., Texas Gas Transmission Corp.

1. 79–07139
2. 17–706–40300–0000–0
3. 102
4. Marathon Oil Company
5. Vermilion Block 331 Well A–10
6. Vermilion
7. 331
8. 972.0 million cubic feet
9. May 30, 1979
10. Texas Eastern Transmission Corp.

1. 79–07140
2. 17–709–40325–0000–0
3. 102
4. Marathon Oil Company
5. Eugene Island Block 57 Well 38–12
6. Eugene Island
7. 38
8. 5475.0 million cubic feet
9. May 30, 1979
10. Natural Gas Pipeline Co. of America, United Gas Pipeline Co., Southern Natural Gas Co., Arkansas Louisiana Gas Co.

1. 79–07141
2. 17–702–40371–0000–0
3. 102
4. Marathon Oil Company
5. West Cameron Block 620 Well A–10
6. West Cameron
7. 620
8. .0 million cubic feet
9. May 30, 1979
10. Texas Eastern Transmission Corp.

1. 79–07109
2. 42–711–40256–0000–0
3. 102
4. Union Oil Company of California
5. A–12
6. East High Island
7. A–334
8. 183.0 million cubic feet
9. May 30, 1979
10. Texas Gas Transmission Corp., El Paso Natural Gas Co., Michigan-Wisconsin Pipeline Co.

1. 79–07115
2. 42–711–40239–0000–0
3. 102
4. Union Oil Company of California
5. A–13
6. East High Island
7. A–334
8. 456.0 million cubic feet
9. May 30, 1979
10. Texas Gas Transmission Corp., El Paso Natural Gas Co., Michigan-Wisconsin Pipeline Co.

1. 79–07119
2. 17–706–40210–0000–3
3. 102
4. CNG Producing Company
5. A–3S1
6. Vermilion
7. 313000
8. 563.0 million cubic feet
9. May 30, 1979
10. Consolidated Gas Supply Corp.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the commission within fifteen (15) days of the date of publication of this notice in the **Federal Register.**

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–20065 Filed 6–29–79; 8:45 am]

BILLING CODE 6450–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

June 20, 1979

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Montana Board of Oil and Gas Conservation

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block number
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–06301
2. 25–005–22003
3. 108
4. J Burns Brown
5. Nemetz 29–33–18
6. Lohman Gas Field
7. Blaine, MT
8. 18.0 million cubic feet
9. May 21, 1979
10. Northern Natural Gas Company

1. 79–06302
2. 25–041–21706
3. 108
4. J Burns Brown
5. Wigmore 30–1
6. Tiger Ridge
7. Hill, MT
8. 16.4 million cubic feet
9. May 21, 1979
10. Northern Natural Gas Company

1. 79–6303
2. 25–041–21892
3. 108
4. J Burns Brown
5. Milam 25–2
6. Badlands
7. Hill, MT
8. 3.0 million cubic feet
9. May 21, 1979
10. Northern Natural Gas Company

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block number
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–06300
2. 30–045–10988
3. 108
4. El Paso Natural Gas Company
5. SJ 32–9 UNIT #64
6. Blanco-Mesaverde Gas
7. San Juan, NM
8. 24.1 million cubic feet
9. May 21, 1979
10. El Paso Natural Gas Company

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block number
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–06306
2. 34–119–23635–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Virgil Mitchell IM
6.
7. Muskingum OH
8. 6.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–06307
2. 34–059–21868–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Ball 1–M
6.
7. Guernsey OH
8. 1.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06308
2. 34–059–21883–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 5E
6.

7. Guernsey OH
8. 7.5 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06309
2. 34-121-21741-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 3E
6.
7. Noble OH
8. 5.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06310
2. 34-119-23719-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Henry Hans 1MB
6.
7. Muskingum OH
8. 3.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06311
2. 34-059-21478-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 6B
6.
7. Guernsey OH
8. 3.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06312
2. 34-059-21485-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 8-B
6.
7. Guernsey OH
8. 1.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06313
2. 34-121-21489-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 5-B
6.
7. Noble OH
8. 7.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06314
2. 34-121-21842-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Archie Prietly 2 MB
6.
7. Noble OH
8. 9.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06315
2. 34-059-21867-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Rogers-Watson-Ball 1-M
6.
7. Guernsey OH
8. 1.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79-06316
2. 34-119-23633-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 2M
6.
7. Muskingum OH
8. 6.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06317
2. 34-059-21502-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 9-B
6.
7. Guernsey OH
8. 6.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06318
2. 34-119-23740-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Kuntz-BD 1MB
6.
7. Muskingum OH
8. 11.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06319
2. 34-119-23724-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Lyon 5MB
6.
7. Muskingum OH
8. 9.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06320
2. 34-119-23029-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Lyon 4MB
6.
7. Muskingum OH
8. 2.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06321
2. 34-119-23707-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Lyon 1MB
6.
7. Muskingum OH
8. 5.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06322
2. 34-059-21304-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Flangan Murray #1
6.
7. Guernsey OH
8. 9.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06323
2. 34-119-22343-0014-
3. 108
4. Guernsey Petroleum Corporation
5. R J Barr #1
6.
7. Muskingum OH
8. 3.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06324
2. 34-119-23698-0014-
3. 108
4. Guernsey Petroleum Corporation
5. David Roberts—1—MB
6.
7. Muskingum OH
8. 8.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06325
2. 34-119-23688-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Dickson 4-MB
6.
7. Muskingum OH
8. 5.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06326
2. 34-119-22287-0014-
3. 108
4. Guernsey Petroleum Corporation
5. H Blackstone 1
6.
7. Muskingum OH
8. 10.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06327
2. 34-119-23649-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Dickson 3 M
6.
7. Muskingum OH
8. 6.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06328
2. 34-121-21516-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 3C
6.
7. Noble OH
8. 8.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06329
2. 34-059-21607-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Fehrman 1C
6.
7. Guernsey OH
8. 9.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79-06330
2. 34-121-21861-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 6-MB
6.
7. Noble OH
8. 9.0 million cubic feet

9. May 18, 1979
10. East Ohio Gas Co
1. 79-06331
2. 34-119-23775-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Henry Hans 2 MB
6.
7. Muskingum OH
8. 3.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06332
2. 34-059-21464-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 1-B
6.
7. Guernsey OH
8. 1.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06333
2. 34-059-21541-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 13-B
6.
7. Guernsey OH
8. 2.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06334
2. 34-059-21527-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 12-B
6.
7. Guernsey OH
8. 1.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06335
2. 34-059-21510-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 11-B
6.
7. Guernsey OH
8. 1.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06336
2. 34-059-21586-0C14-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 20-C
6.
7. Guernsey OH
8. 9.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06337
2. 34-119-22808-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 14B
6.
7. Muskingum OH
8. 3.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06338
2. 34-119-22612-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Blackform-Wickham #1
6.
7. Muskingum OH
8. 5.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp
1. 79-06339
2. 34-121-21577-0014-
3. 108
4. Guernsey Petroleum Corporation
G W & D Hurst 1-C
6.
7. Noble OH
8. 4.0 million cubic feet
9. May 18, 1979
10 East Ohio Gas Co
1. 79-06340
34-119-22915-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 36C
6.
7. Muskingum OH
8. 1.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06341
2. 34-121-21536-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 12-C
6.
7. Noble OH
8. 2.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06342
2. 34-121-21868-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 9-MB
6.
7. Noble OH
8. 15.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06343
2. 34-059-21562-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 4-C
6.
7. Guernsey OH
8. 2.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06344
2. 34-059-21602-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 29-C
6.
7. Guernsey OH
8. 7.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06345
2. 34-119-22887-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 28C
6.
7. Muskingum OH
8. 6.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06347
2. 34-119-22854-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 25C
6.
7. Muskingum OH
8. 3.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06348
2. 34-059-21593-0014-
3. 108
4. Guernsey Petroleum Corporation
5. M Wilson 1-C
6.
7. Guernsey OH
8. 3.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06349
2. 34-119-22846-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 19-B
6.
7. Muskingum OH
8. 10.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06350
2. 34-119-22832-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 23C
6.
7. Muskingum OH
8. 16.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06351
2. 34-119-22833-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 2C
6.
7. Muskingum OH
8. 14.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06352
2. 34-119-22831-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 21-C
6.
7. Muskingum OH
8. 14.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79-06353
2. 34-059-21644-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 45C
6.
7. Guernsey OH
8. 7.0 million cubic feet
9. May 18, 1979

10. East Ohio Gas Co
1. 79–06354
2. 34–121–21592–0014–
3. 108
4. Guernsey Petroleum Corporation
5. G W & D Hurst 2C
6.
7. Noble OH
8. 10.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp
1. 79–06355
2. 34–119–22984–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 44C
6.
7. Muskingum OH
8. 10.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79–06356
2. 34–059–21642–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 43–C
6.
7. Guernsey OH
8. 7.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79–06357
2. 34–119–22962–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 41–C
6.
7. Muskingum OH
8. 7.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79–6346
2. 34–059–21599–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 26–C
6.
7. Guernsey OH
8. 7.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

U.S. Geological Survey, Tulsa, Okla.

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block number
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–06304
2. 15–093–20478–0000–0
3. 103
4. Kansas-Nebraska Natural Gas Co Inc
5. K N N G—Campbell 15–2
6. Panoma Council Grove
7. Kearny, KS
8. 86.0 million cubic feet
9. May 21, 1979
10.

1. 79–6305
2. 35–043–20940
3. 103
4. Hoover & Bracken Energies Inc
5. Strongwolf #1–32
6. Southeast Fonda
7. Dewey, OK
8. May 21, 1979
9. 14.6 million cubic feet
10. Phillips Petroleum Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the Federal Register.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–20066 Filed 6–29–79; 8:45 am]

BILLING CODE 6450–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

June 20, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–06489
2. 34–119–23054–0014–
3. 108
4. Clinton Oil Co
5. Albert Green Jr #1
6.
7. Muskingum OH
8. 1.5 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Co

1. Control number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–06358
2. 34–119–22987–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 40–C
6.
7. Muskingum OH
8. 15.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79–06359
2. 34–119–22935–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 37–C
6.
7. Muskingum OH
8. 3.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79–06360
2. 34–119–22901–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 22–B
6.
7. Muskingum OH
8. 14.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79–06361
2. 34–119–22891–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Dickson-Johnson 1–C
6.
7. Muskingum OH
8. 14.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79–06362
2. 34–121–21618–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Everly Bates 1–G
6.
7. Noble OH
8. 11.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Co
1. 79–06363
2. 34–121–21613–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 1–J
6.
7. Noble OH
8. 14.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co
1. 79–06364
2. 34–133–21849–0014–
3. 103
4. Viking Resources Corporation

5. Chester O & Deborah Timmons Unit 1
6.
7. Portage OH
8. 30.0 million cubic feet
9. May 18, 1979
10.

1. 79-06365
2. 34-119-23948-0014-
3. 103
4. Cameron Brothers
5. George Dosch #1
6.
7. Muskingum OH
8. 25.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79-06366
2. 34-119-24357-0014-
3. 103
4. Cameron Brothers
5. John Sheck #1
6.
7. Muskingum OH
8. 18.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79-06367
2. 34-153-20626-0014-
3. 103
4. K S T Oil & Gas Co Inc
5. Judith Loving #1
6.
7. Summit OH
8. 35.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06368
2. 34-153-20620-0014-
3. 103
4. K S T Oil & Gas Co Inc
5. Mary Fessler Et al #1
6.
7. Summit OH
8. 35.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79-06369
2. 34-157-23171-0014-
3. 103
4. Oil & Gas Drilling Part 78-A Ltd
5. Ralph Hagen #1
6.
7. Tuscarawas OH
8. 40.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Company

1. 79-06370
2. 34-019-21121-0041-
3. 103
4. MB Operating Co Inc
5. Aston Bullock #3
6.
7. Carroll OH
8. 5.5 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co

1. 79-06371
2. 34-019-21122-0014-
3. 103
4. MB Operating Co Inc
5. Aston Bullock #2
6.
7. Carroll OH
8. 5.5. million cubic feet
9. May 18, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas

1. 79-06372
2. 34-151-22706-0014-
3. 103
4. MB Operating Co Inc
5. I & R Wolf #4
6.
7. Stark OH
8. 9.9. million cubic feet
9. May 18, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co

1. 79-06373
2. 34-151-22642-0014-
3. 103
4. MB Operating Co Inc
5. I & R Wolf #2
6.
7. Stark OH
8. 9.9 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co

1. 79-06374
2. 34-151-22857-0014-
3. 103
4. MB Operating Co Inc
5. H & D Wenger Unit #1
6.
7. Stark OH
8. 9.9 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co, Republic Steel Corp, Columbia Gas Co

1. 79-06375
2. 34-121-21607-0014-
3. 108
4. Guernsey Petroleum Corp
5. Urbane Hurst 1G
6.
7. Noble OH
8. 15.0 Million cubic feet
9. May 18, 1979
10. Columbia Gas Tran Co

1. 79-06376
2. 34-121-21608-0014-
3. 108
4. Guernsey Petroleum Corp
5. W Everly 1G
6.
7. Noble OH
8. 5.0 Million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Co

1. 79-06377
2. 34-119-23057-0014-
3. 108
4. Guernsey Petroleum Corp
5. Wilson 1G
6.
7. Muskingum OH
8. 7.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06378
2. 34-059-21661-0014-
3. 108
4. Guernsey Petroleum Corp
5. Miller
6.
7. Guernsey OH
8. 6.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06379
2. 34-119-23026-0014-
3. 108
4. Guernsey Petroleum Corp
5. Emma Tucker 1F
6.
7. Muskingum OH
8. 5.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06380
2. 34-119-23028-0014-
3. 108
4. Guernsey Petroleum Corp
5. R & I Kuntz 1-J
6.
7. Muskingum OH
8. 3.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06381
2. 34-059-21645-0014-
3. 108
4. Guernsey Petroleum Corp
5. Williams 1-C
6.
7. Guernsey OH
8. 1.0 Million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79-06382
2. 34-119-23220-0014-
3. 108
4. Guernsey Petroleum Corp
5. Starrett-Tucker 1G
6.
7. Muskingum OH
8. 9.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06383
2. 34-119-23164-0014-
3. 108
4. Guernsey Petroleum Corp
5. Mitchell 1G
6.
7. Muskingum OH
8. 15.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06384
2. 34-121-21637-0014-
3. 108
4. Guernsey Petroleum Corp
5. Ginn 2G
6.
7. Noble OH
8. 6.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79-06385
2. 34-121-21631-0014-
3. 108
4. Guernsey Petroleum Corp
5. Everly-Sanford 2G
6.
7. Noble OH
8. 4.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–06386
2. 34–121–21622–0014–
3. 108
4. Guernsey Petroleum Corp
5. Ohio Power 11G
6.
7. Noble OH
8. 5.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–06387
2. 34–121–21621–0014–
3. 108
4. Guernsey Petroleum Corp
5. Ohio Power 9G
6.
7. Noble OH
8. 8.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–06388
2. 34–121–21630–0014–
3. 108
4. Guernsey Petroleum Corp
5. Cale 1G
6.
7. Noble OH
8. 3.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–06389
2. 34–119–23086–0014–
3. 108
4. Guernsey Petroleum Corp
5. Dayle Tucker 2–G
6.
7. Muskingum OH
8. 6.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–06390
2. 34–119–23085–0014–
3. 108
4. Guernsey Petroleum Corp
5. Dayle Tucker 1G
6.
7. Muskingum OH
8. 2.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–06391
2. 34–009–21466–0014–
3. 108
4. John R Bickle
5. Howard A Johnson B1
6. Amesville
7. Athens OH
8. .9 Million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06392
2. 34–009–21214–0014–
3. 108
4. John R Bickle
5. Howard A Johnson #4
6. Amesville
7. Athens OH
8. .9 Million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06393
2. 34–009–21471–0014–
3. 108
4. John R Bickle
5. Howard A Johnson B2
6. Amesville
7. Athens OH
8. .9 Million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06394
2. 34–105–21723–0014–
3. 108
4. BJVC Energy Management Corp
5. James O'Brien #1
6.
7. Meigs OH
8. 4.0 Million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06395
2. 34–105–21726–0014–
3. 108
4. BJVC Energy Management Corp
5. Bertha Lasher #1
6.
7. Meigs OH
8. 7.0 Million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06396
2. 34–105–21727–0014–
3. 108
4. BJVC Energy Management Corp
5. Jack Shiflet #3
6.
7. Meigs OH
8. 5.0 Million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06397
2. 34–105–21716–0014–
3. 108
4. BJVC Energy Management Corp
5. Jack Shiflet #2
6.
7. Meigs OH
8. 5.0 Million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06398
2. 34–105–21715–0014–
3. 108
4. BJVC Energy Management Corp
5. Williams Nichols #3
6.
7. Meigs OH
8. 6.0 Million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06399
2. 34–105–21720–0014–
3. 108
4. BJVC Energy Management Corp
5. William Nichols #2
6.
7. Meigs OH
8. 6.0 Million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06400
2. 34–105–21721–0014–
3. 108
4. BJVC Energy Management Corp
5. William Nichols #1
6.
7. Meigs OH
8. 6.0 Million cubic feet
9. May 18, 1979
10. Columbia Gas Trans

1. 79–06401
2. 34–167–22273–0014–
3. 108
4. Westopen Minerals
5. Epler #5
6.
7. Washington OH
8. 2.3 Million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06402
2. 34–167–20205–0014–
3. 108
4. Westopen Minerals
5. Schlarb #2
6.
7. Washington OH
8. 2.9 Million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06403
2. 34–119–22660–0014–
3. 108
4. American Exploration Co
5. H Combs #2
6.
7. Muskingum OH
8. 2.0 Million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06404
2. 34–119–23299–0014–
3. 108
4. American Exploration Co
5. Edwards #1
6.
7. Muskingum OH
8. 1.4 Million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06405
2. 34–075–21653–0014–
3. 108
4. American Exploration Co
5. Jonas T Miller #1
6.
7. Holmes OH
8. 2.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06406
2. 34–119–23223–0014–
3. 108
4. American Exploration Co
5. Clara Ridgley #1
6.
7. Muskingum OH
8. 2.1 million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp

1. 79–06407
2. 34–119–23140–0014–
3. 108
4. American Exploration Co
5. Joseph Riley #1
6.
7. Muskingum OH
8. 2.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06408

2. 34–119–22368–0014–
3. 108
4. Clinton Oil Co
5. Clarence A Goss #3
6.
7. Muskingum OH
8. 12.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06409
2. 34–053–20232–0014–
3. 108
4. R Gene Brasel DBA Brasel & Brasel
5. Dennis Lane #1
6.
7. Gallia OH
8. 4.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06410
2. 34–119–23888–0014–
3. 108
4. American Exploration Co
5. George Kreager #2
6.
7. Muskingum OH
8. 8.0 million cubic feet
9. May 18, 1979
10. Newzane Gas Company

1. 79–06411
2. 34–105–21689–0014–
3. 108
4. Carl E Smith Inc
5. Elbert Eddy #1
6.
7. Meigs OH
8. 1.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06412
2. 34–009–21806–0014–
3. 108
4. Carl E Smith Inc
5. Francis S Camp #1
6.
7. Athens OH
8. 5.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp

1. 79–06413
2. 34–155–20492–0014–
3. 103
4. Inland Drilling Co Inc
5. Stoneman #1 0492
6.
7. Trumbull OH
8. .3 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–06414
2. 34–083–22566–0014–
3. 103
4. American Well Management Co
5. Beach #2
6.
7. Knox OH
8. .0 million cubic feet
9. May 18, 1979
10. Not yet determined

1. 79–06415
2. 34–019–21227–0014–
3. 103
4. L & M Exploration
5. Frace #3
6.
7. Carroll OH
8. .0 million cubic feet
9. May 18, 1979
10. Bonanza Gas Line

1. 79–06416
2. 34–075–22971–0014–
3. 103
4. W H Patten Drilling Co
5. Rutherford B Hayes #3
6. Iverton
7. Coshoston OH
8. 52.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission

1. 79–06417
2. 34–169–21974–0014–
3. 103
4. Anchor Petroleum Corp
5. James Cornelius Well No 1
6.
7. Wayne OH
8. 1.5 million cubic feet
9. May 18, 1979
10. Columbia Gas of Ohio

1. 79–06418
2. 34–031–22856–0014–
3. 108
4. Conpetro Ventures Ltd
5. Peabody #9
6.
7. Coshocton OH
8. 13.0 million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp

1. 79–06419
2. 34–019–21115–0014–
3. 103
4. L & M Exploration
5. Conotton Land Co #1
6.
7. Carroll OH
8. 1.5 million cubic feet
9. May 18, 1979
10. Bonanza Gas Line

1. 79–06420
2. 34–155–20753–0014–
3. 103
4. Inland Drilling Co Inc
5. Fasulo #2 0753
6.
7. Trumbull OH
8. .9 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–06421
2. 34–019–21129–0014–
3. 103
4. L & M Exploration
5. Frace #5
6.
7. Carroll OH
8. 2.0 million cubic feet
9. May 18, 1979
10. Bonanza Gas Line

1. 79–06422
2. 34–019–21224–0014–
3. 103
4. L & M Exploration
5. Frace #6
6.
7. Carroll OH
8. 2.0 million cubic feet
9. May 18, 1979
10. Bonanza Gas Line

1. 79–06423
2. 34–019–21228–0014–
3. 103
4. The Mutual Oil & Gas Company
5. William H. Ashworth Jr #5–A
6.
7. Carroll OH
8. 6.0 million cubic feet
9. May 18, 1979
10. The East Ohio Gas Company

1. 79–06424
2. 34–083–22567–0014–
3. 103
4. American Well Management Company
5. Beach #1
6.
7. Knox OH
8. 18.0 million cubic feet
9. May 18, 1979
10.

1. 79–06425
2. 34–155–20626–0014–
3. 103
4. Inland Drilling Co Inc
5. Brook #1 0626
6.
7. Trumbull OH
8. 6.7 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–06426
2. 34–155–20879–0014–
3. 103
4. Pyramid Oil & Gas Company
5. Skrocki #1
6.
7. Trumbull OH
8. 25.0 million cubic feet
9. May 18, 1979
10.

1. 79–06427
2. 34–053–22390–0014–
3. 103
4. Orwig Oil Company
5. R O L Corporation #3
6.
7. Gallia OH
8. 1.6 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06428
2. 34–053–23230–0014–
3. 103
4. Orwig Oil Company
5. R O L Corporation #4
6.
7. Gallia OH
8. 1.6 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06429
2. 34–053–23250–0014–
3. 103
4. Orwig Oil Company
5. R O J Corporation #5
6.
7. Gallia OH
8. 1.6 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06430
2. 34–105–21728–0014–

3. 103
4. Orwig Oil Company
5. Leo Wood #1
6.
7. Meigs OH
8. 8.4 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06431
2. 34–127–24214–0014–
3. 103
4. Wilson Petroleum Corp
5. Sunday Creek Coal Co No 1
6.
7. Perry OH
8. 12.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Co

1. 79–06432
2. 34–053–23280–0014–
3. 103
4. Orwig Oil Company
5. R O J Corporation #6
6.
7. Gallia OH
8. 1.6 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06433
2. 34–053–22600–0014–
3. 103
4. Orwig Oil Company
5. F D Shoemaker #1
6.
7. Gallia OH
8. 5.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06434
2. 34–053–22650–0014–
3. 103
4. Orwig Oil Company
5. Shoemaker-Smith #1
6.
7. Gallia OH
8. 5.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06435
2. 34–053–22520–0014–
3. 103
4. Orwig Oil Company
5. Frederick Thompson #1
6.
7. Gallia OH
8. 1.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06436
2. 34–053–22590–0014–
3. 103
4. Orwig Oil Company
5. Federick Thompson #2
6.
7. Gallia OH
8. 1.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06437
2. 34–053–22460–0014–
3. 103
4. Orwig Oil Company
5. A C Vangilder #2
6.
7. Gallia OH
8. 1.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06438
2. 34–053–21731–0014–
3. 103
4. Orwig Oil Company
5. William Chapman #1
6.
7. Meigs OH
8. 4.1 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06439
2. 34–105–21737–0014–
3. 103
4. Orwig Oil Company
5. William Chapman #2
6.
7. Meigs OH
8. 4.1 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06440
2. 34–053–22720–0014–
3. 103
4. Orwig Oil Company
5. Walden Darst #1
6.
7. Gallia OH
8. 5.5 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06441
2. 34–053–22550–0014–
3. 103
4. Orwig Oil Company
5. Roy Handley #1
6.
7. Gallia OH
8. 2.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06442
2. 34–053–22580–0014–
3. 103
4. Orwig Oil Company
5. Roy Handley #2
6.
7. Gallia OH
8. 2.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06443
2. 34–053–23630–0014–
3. 103
4. Orwig Oil Company
5. Roy Handley #3
6.
7. Gallia OH
8. 2.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06444
2. 34–073–21951–0014–
3. 103
4. Orwig Oil Company
5. Hocking Gas #1
6.
7. Hocking OH
8. 1.8 million cubic feet
9. May 18, 1979
10. Paramount Transmission Corp

1. 79–06445
2. 34–167–23909–0014–
3. 103
4. Cline Oil 7 Gas Co
5. Snodgrass #1
6.
7. Washington OH
8. 7.4 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06446
2. 34–167–23965–0014–
3. 103
4. Cline Oil & Gas Co
5. Snodgrass #2
6.
7. Washington OH
8. 7.4 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06447
2. 34–167–23966–0014–
3. 103
4. Cline Oil & Gas Co
5. Hughey #1
6.
7. Washington OH
8. 24.8 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06448
2. 34–053–22140–0014–
3. 103
4. Orwig Oil Company
5. R O J Corporation #2
6.
7. Gallia OH
8. 1.6 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06449
2. 34–105–21739–0014–
3. 103
4. Orwig Oil Company
5. Margaret Lewis #1
6.
7. Meigs OH
8. 8.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06450
2. 34–073–21955–0014–
3. 103
4. Orwig Oil Company
5. Hocking Gas #3
6.
7. Hocking OH
8. 1.8 million cubic feet
9. May 18, 1979
10. Paramount Transmission Corp

1. 79–06451
2. 34–119–24478–0014–
3. 103
4. Callander & Kimbrel Inc
5. Lake Northrup #1
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. May 18, 1979
10.

1. 79–06452
2. 34–119–24417–0014–
3. 103
4. Callander & Kimbrel Inc

5. Alfman #2
6.
7. Muskingum OH
8. 18.3 million cubic feet
9. May 18, 1979
10.

1. 79–06453
2. 34–119–24479–0014–
3. 103
4. Callander & Kimbrel Inc
5. McIntire #2
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. May 18, 1979
10.

1. 79–06454
2. 34–119–22788–0014–
3. 103
4. Callander & Kimbrel Inc
5. Lautzenheiser #2
6.
7. Muskingum OH
8. 14.6 million cubic feet
9. May 18, 1979
10.

1. 79–06455
2. 34–167–23991–0014–
3. 103
4. Cline Oil & Gas Co
5. Roff #1
6.
7. Washington OH
8. 2.3 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06456
2. 34–031–23430–0014–
3. 103
4. W E Shrider Co
5. George Buxton #2
6.
7. Coshocton
8. 3.0 million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp

1. 79–06457
2. 34–153–20628–0014–
3. 103
4. K S T Oil & Gas Co Inc
5. Judith Loving #2
6.
7. Summit
8. 35.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–06458
2. 34–083–22583–0014–
3. 103
4. Irvin Producing Company
5. Roy Wells #3
6.
7. Knox OH
8. 10.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79–06459
2. 34–133–21851–0014–
3. 103
4. Viking Resources Corporation
5. Chester O & Deborah Timmons Unit #4
6.
7. Portage OH
8. 30.0 million cubic feet
9. May 18, 1979
10.

1. 79–06460
2. 34–133–21852–0014–
3. 103
4. Viking Resources Corporation
5. Chester O & Deborah Timmons Unit #2
6.
7. Portage OH
8. 30.0 million cubic feet
9. May 18, 1979
10.

1. 79–06461
2. 34–155–20636–0014–
3. 103
4. Inland Drilling Co Inc
5. Byler #1 0636
6.
7. Trumbull OH
8. .4 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–06462
2. 34–155–20491–0014–
3. 103
4. Inland Drilling Co Inc
5. Christlieb #1 0491
6.
7. Trumbull OH
8. .9 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–06463
2. 34–155–20493–0014–
3. 103
4. Inland Drilling Co Inc
5. Drotos #1 0493
6.
7. Trumbull OH
8. .3 million cubic feet
9. May 18, 1979
10. East Ohio Gas

1. 79–06464
2. 34–155–20548–0014–
3. 103
4. Inland Drilling Co Inc
5. Fasulo Gause Debord Unit #1 0548
6.
7. Trumbull OH
8. .8 million cubic feet
9. May 18, 1979
10. East Ohio Gas

1. 79–06465
2. 34–155–20747–0014–
3. 103
4. Inland Drilling Co Inc.
5. Hilditch #2 0747
6.
7. Trumbull OH
8. .4 million cubic feet
9. May 18, 1979
10. East Ohio Gas

1. 79–06466
2. 34–155–20770–0014–
3. 103
4. Inland Drilling Co Inc.
5. Stoneman #2 0770
6.
7. Trumbull OH
8. .3 million cubic feet
9. May 18, 1979
10. East Ohio Gas

1. 79–06467
2. 34–155–20635–0014–
3. 103
4. Inland Drilling Co Inc.
5. Lippert #1 0635
6.
7. Trumbull OH
8. .4 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co

1. 79–06468
2. 34–089–23540–0014–
3. 103
4. Illinois coal oil & gas
5. L. Flowers No 1
6.
7. Licking OH
8. 18.0 million cubic feet
9. May 18, 1979
10. National Gas & Oil Corporation

1. 79–06469
2. 34–167–20074–0014–
3. 108
4. Westopen minerals
5. Best #1
6.
7. Washington OH
8. .8 million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp.

1. 79–06470
2. 34–169–21060–0014–
3. 108
4. David Shafer Oil Producers Inc
5. E. Croft #1
6.
7. Wayne OH
8. 2.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79–06471
2. 34–169–21007–0014–
3. 108
4. David Shaffer Oil Producers Inc
5. E. Fetzer #1
6.
7. Wayne OH
8. 2.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79–06472
2. 34–105–20128–0014–
3. 108
4. Blue Creek Gas Company
5. Elise Jividen #6
6.
7. Meigs OH
8. 2. 0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79–06473
2. 34–119–21993–0014–
3. 108
4. Clinton Oil Co
5. Donald Smith #1
6.
7. Muskingum OH
8. 4.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Co

1. 79–06474
2. 34–119–22648–0014–
3. 108
4. Clinton Oil Co
5. Williams-Thornberry #1

6.
7. Muskingum OH
8. 1.2 milion cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Co
1. 79-06475
2. 34-119-22627-0014-
3. 108
4. Clinton Oil Co
5. Zella-Dozer #1
6.
7. Muskingum OH
8. 6.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Co.
1. 79-06476
2. 34-031-22064-0014-
3. 108
4. Clinton Oil Co
5. Schweitzer-Greene #1
6.
7. Coshocton OH
8. 4.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Co
1. 79-06477
2. 34-119-23049-0014-
3. 108
4. Clinton Oil Co
5. Prout #1
6.
7. Muskingum OH
8. 12.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Co
1. 79-06478
2. 34-119-22856-0014-
3. 108
4. Clinton Oil Co
5. Moody #1
6.
7. Muskingum OH
8. 5.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Co
1. 79-06479
2. 34-119-22192-0014-
3. 108
4. Clinton Oil Co
5. Goss #1
6.
7. Muskingum OH
8. 4.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.
1. 79-06480
2. 34-119-22973-0014-
3. 108
4. Clinton Oil Co
5. Goodrich-Jones #1
6.
7. Muskingum OH
8. 6.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.
1. 79-06481
2. 34-119-22271-0014-
3. 108
4. Clinton Oil Co
5. Goss #2
6.
7. Muskingum OH
8. 8.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.
1. 79-064082
2. 34-119-22015-0014-
3. 108
4. Clinton Oil Co
5. Cooper-Sidwell #1
6.
7. Muskingum OH
8. 4.8 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.
1. 79-064083
2. 34-031-22041-0014-
3. 108
4. Clinton Oil Co
5. Gerald Hindel #1
6.
7. Coshocton OH
8. 2.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.
1. 79-064084
2. 34-119-22549-0014-
3. 108
4. Clinton Oil Co
5. H E Ethell #1
6.
7. Muskingum OH
8. 2.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Crop
1. 79-06485
2. 34-119-22981-0014-
3. 108
4. Clinton Oil Co
5. Sentivany #1
6.
7. Muskingum OH
8. 2.0 million Cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.
1. 79-06486
2. 34-119-22600-0014-
3. 108
4. Clinton Oil Co
5. Ralph Hittle #1
6.
7. Muskingum OH
8. 12.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Co
1. 79-06487
2. 34-031-22025-0014-
3. 108
4. Clinton Oil Co
5. Jay T Hindle #1
6.
7. Coshocton OH
8. 6.5 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Co
1. 79-06488
2. 34-031-22040-0014
3. 108
4. Clinton Oil Co
5. John Hatfield Unit #1
6.
7. Coshocton
8. 16.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Co
1. 79-06490
2. 34-119-22520-0014-
3. 108
4. Clinton Oil Co
5. Arthur G Miller #1
6.
7. Muskingum OH
8. 3.6 million cubic feet
9. May 18, 1979
10. The Columbia Gas Transmission Co
1. 79-06491
2. 34-119-22842-0014-
3. 108
4. Clinton Oil Co
5. Gill-Thornberry #1
6.
7. Muskingum OH
8. 7.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.
1. 79-06492
2. 34-031-22236-0014-
3. 108
4. Clinton Oil Co
5. Conrad-Schweitzer #1
6.
7. Coshocton OH
8. 4.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.
1. 79-064093
2. 34-119-22578-0014-
3. 108
4. Clinton Oil Co
5. Goodrich #1
6.
7. Muskingum OH
8. 3.6 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.
1. 79-06494
2. 34-119-22939-0014-
3. 108
4. American Exploration Co
5. Kimpel #1
6.
7. Muskingum OH
8. 2.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.
1. 79-06495
2. 34-031-22089-0014-
3. 108
4. Clinton Oil Co
5. Robert M Martin #1
6.
7. Coshocton OH
8. 2.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Co
1. 79-06496
2. 34-089-23134-0014-
3. 108
4. American Exploration Co.
5. Varner #9
6.
7. Licking OH
8. 8.0 Million Cubic Feet
9. May 18, 1979
10. National Gas & Oil Corp.
1. 79-06497
2. 34-075-21541-0014-
3. 108
4. American Exploration Co.
5. Gingerich #1
6.

7. Holmes OH
8. 2.0 Million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79–06498
2. 34–119–22925–0014–
3. 108
4. American Exploration Co.
5. Della Swingle #1
6.
7. Muskingum OH
8. 2.0 Million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp.

1. 79–06499
2. 34–075–21542–0014–
3. 108
4. American Exploration Co.
5. Abe Miller #1
6.
7. Holmes OH
8. 6.0 Million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79–06500
2. 34–119–23298–0014–
3. 108
4. American Exploration Co.
5. McCarty #2
6.
7. Muskingum OH
8. 12.5 Million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp.

1. 79–06501
2. 34–119–23214–0014–
3. 108
4. American Exploration Co.
5. Jack Hill et al #
6.
7. Muskingum OH
8. 12.0 Million cubic feet
9. May 18, 1979
10. Clinton/Newzane Gas Co.

1. 79–06502
2. 34–151–21127–0014–
3. 108
4. K-Vill Oil & Gas
5. A. M. Miller #1
6.
7. Stark OH
8. 9.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79–06503
2. 34–151–21077–0014–
3. 108
4. K–Vill Oil & Gas
5. Vincent #1
6.
7. Stark OH
8. 4.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79–06504
2. 34–151–21087–0014–
3. 108
4. K-Vill Oil & Gas
5. Wright #1
6.
7. Stark OH
8. 9.0 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79–06505
2. 34–031–23040–0014–
3. 108
4. Conpetro Inc.
5. Peabody Coal Co. #30
6.
7. Coshocton OH
8. 17.0 Million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp.

1. 79–06506
2. 34–031–23020–0014–
3. 108
4. Conpetro Inc.
5. Peabody #29
6.
7. Coshocton OH
8. 17.0 Million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp.

1. 79–79–06507
2. 34–031–22998–0014–
3. 108
4. Conpetro Inc.
5. Peabody Coal Co. #15
6.
7. Coshocton OH
8. 17.0 Million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp.

1. 79–06508
2. 34–031–23023–0014–
3. 108
4. Conpetro Inc.
5. Peabody Coal Co #23
6.
7. Coshocton OH
8. 17.0 Million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp.

1. 79–06509
2. 34–031–23043–0014–
3. 108
4. Conpetro Inc.
5. Peabody Coal Co #25
6.
7. Coshocton OH
8. 17.0 Million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp.

1. 79–06510
2. 34–031–23041–0014–
3. 108
4. Conpetro Inc.
5. Peabody Coal Co #26
6.
7. Coshocton OH
8. 17.0 Million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp.

1. 79–06511
2. 34–031–23008–0014–
3. 108
4. Conpetro Inc.
5. Peabody Coal Co #27
6.
7. Coshocton OH
8. 17.0 Million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp.

1. 79–06512
2. 34–019–21120–0014–
3. 103
4. MB Operating Co. Inc.
5. Aston Bullock #4
6.
7. Carroll OH
8. 5.5 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co., Columbia Gas Co, Republic Steel Corp.

1. 79–06513
2. 34–133–21846–0014–
3. 103
4. Viking Resources Corporation
5. The Newbury Invt. Co Unit #1
6.
7. Portage OH
8. 30.0 Million cubic feet
9. May 18, 1979
10.

1. 79–06514
2. 34–133–21845–0014–
3. 108
4. Viking Resources Corporation
5. The Newbury Invt. Co Unit #2
6.
7. Portage OH
8. 30.0 Million cubic feet
9. May 18, 1979
10.

1. 79–06515
2. 34–155–20627–0014–
3. 103
4. Inland Drilling Co. Inc.
5. Chorba #1 0627
6.
7. Trumbull OH
8. .7 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79–06516
2. 34–155–20694–
3. 108
4. Inland Drilling Co. Inc.
5. Henry #1 0694
6.
7. Trumbull OH
8. .6 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79–06517
2. 34–155–20664–0014–
3. 103
4. Inland Drilling Co. Inc.
5. Markle #1 0664
6.
7. Trumbull OH
8. .5 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79–06518
2. 34–155–20625–0014–
3. 103
4. Inland Drilling Co. Inc.
5. Ryan #1 0625
6.
7. Trumbull OH
8. .5 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79–06519
2. 34–155–20693–0014–
3. 103
4. Inland Drilling Co. Inc.
5. Anderson Unit #1 0693
6.
7. Trumbull OH

8. 1.1 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79–06520
2. 34–155–20692–0014–
3. 103
4. Inland Drilling Co. Inc.
5. Hilditch #1 0692
6.
7. Trumbull OH
8. 1.1 Million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79–06521
2. 34–031–23001–0014–
3. 108
4. Conpetro Inc.
5. Peabody Coal Co. #12
6.
7. Coshocton OH
8. 17.0 Million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp.

1. 79–06522
2. 34–073–21562–0014–
3. 108
4. Quaker State Oil Refining Corp.
5. Grace B. Hull #2 69143–02
6.
7. Hocking OH
8. .8 Million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79–06523
2. 34–073–21628–0014–
3. 108
4. Quaker State Ohio Refining Corp.
5. Grace B. Hull #6 69143–06
6.
7. Hocking OH
8. .7 Million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79–06524
2. 34–073–21644–0014–
3. 108
4. Quaker State Oil Refining Corp.
5. Grace B. Hull #7 69143–07
6.
7. Hocking OH
8. .2 Million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79–06525
2. 34–083–22306–0014–
3. 108
4. Ludco Inc.
5. Stutz #1
6. Danville
7. Knox OH
8. 5.0 Million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79–06526
2. 34–919–22517–0014–
3. 108
4. The Oxford Oil Co.
5. Ralph Davis #1
6.
7. Muskingum OH
8. 6.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Trans Corp.

1. 79–06527
2. 34–119–24022–0014–
3. 103
4. Russell E Snider
5. Gustav F Schneider #2
6.
7. Muskingum OH
8. 4.2 million cubic feet
9. May 18, 1979
10.

1. 79–06528
2. 34–119–22006–0014–
3. 108
4. Clinton Oil Co.
5. C D and D R Sidwell #1
6.
7. Muskingum OH
8. 4.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Co.

1. 79–06529
2. 34–151–21098–0014–
3. 108
4. D-Vill Oil & Gas
5. Kamerer-Gardner #1
6.
7. Stark OH
8. 4.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Company

1. 79–06530
2. 34–031–23000–0014–
3. 108
4. Conpetro Inc.
5. Peabody Coal Co. #13
6.
7. Coshocton OH
8. 17.0 million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp.

1. 79–06531
2. 34–119–23797–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power IIMC
6.
7. Muskingum OH
8. 10.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79–06532
2. 34–119–23788–0014–
3. 108
4. Guernsey Petroleum Corp.
5. Ohio Power 10–MC
6.
7. Muskingum OH
8. 14.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79–06533
2. 34–119–23797–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Lyon 3MC
6.
7. Muskingum OH
8. 4.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79–06534
2. 34–059–22168–0014–
3. 108
4. Guernsey Petroleum Corporation
5. William Ball 2nd
6.
7. Guernsey OH
8. 7.0 million cubic feet
9. May 18, 1979
10. Colombia Gas Transmission Co.

1. 79–06535
2. 34–059–22055–0014–
3. 108
4. Guernsey Petroleum Corporation
5. Hollingsworth 2MD
6.
7. Guernsey OH
8. 7.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79–06536
2. 34–099–20088–0014–
3. 108
4. Columbia Gas Transmission Corp.
5. 711432 # 1 Colla-Olesko
6.
7. Mahoning OH
8. 13.4 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79–06537
2. 34–005–23171–0014–
3. 108
4. Hortin & Hoffman
5. D & C Davies #1
6.
7. Ashland
8. 2.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79–06538
2. 34–169–21980–0014–
3. 108
4. Franklin Gas & Oil Co., Inc.
5. Florence A Bucher #1
6.
7. Wayne OH
8. 5.3 million cubic feet
9. May 18, 1979
10. East Ohio Gas Company

1. 79–06539
2. 34–157–22301–0014–
3. 108
4. Franklin Gas & Oil Co., Inc.
5. Jonas A Kauffman #1
6.
7. Tuscarawas OH
8. 3.6 million cubic feet
9. May 18, 1979
10. East Ohio Gas Company

1. 79–06540
2. 34–031–22162–0014–
3. 108
4. Mobreal Oil Inc.
5. Cardina-Wilson #1
6.
7. Coshocton
8. 2.5 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79–06541
2. 34–031–22133–0014–
3. 108
4. Mobreal Oil Inc.
5. Bahmer-Hoffman #1
6.
7. Coshocton OH
8. 2.5 million cubic feet

9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79-06542
2. 34-031-22103-0014-
3. 108
4. Mobreal Oil Inc.
5. Bahmer-Buehler #1
6.
7. Coshocton OH
8. 5.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79-06543
2. 34-031-22109-0014-
3. 108
4. Mobreal Oil Inc.
5. Morris-Wilkinson #1
6.
7. Coshocton OH
8. 6.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79-06544
2. 34-031-22132-0014-
3. 108
4. Mobreal Oil Inc
5. Wayne Farms #1
6.
7. Coshocton OH
8. 3.0 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp

1. 79-06545
2. 34-157-22359-0014-
3. 108
4. Franklin Gas & Oil Co Inc
5. Roman A Yoder Unit #1
6.
7. Tuscarawas OH
8. 2.7 million cubic feet
9. May 18, 1979
10. East Ohio Gas Company

1. 79-06546
2. 34-169-21780-0014-
3. 108
4. Franklin Gas & Oil Co., Inc.,
5. Mosher-Steiner No. 1
6.
7. Wayne OH
8. 4.4 million cubic feet
9. May 18, 1979
10. Columbia Gas Transmission Corp.

1. 79-06547
2. 34-031-22850-0014-
3. 108
4. Conpetro Ventures Inc.,
5. Peabody No. 7
6.
7. Coshocton OH
8. 3.5 million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp.

1. 79-06548
2. 34-031-22859-0014-
3. 108
4. Conpetro Ventures Ltd
5. Peabody #11
6.
7. Coshocton OH
8. 13.0 million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp.

1. 79-06549
2. 34-031-23006-0014-
3. 108
4. Conpetro Inc
5. Peabody Coal Co #14
6.
7. Coshocton OH
8. 17.0 million cubic feet
9. May 18, 1979
10. National Gas & Oil Corp.

1. 79-06550
2. 34-121-21694-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Phelps-Rayner 1G
6.
7. Noble OH
8. 8.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79-06551
2. 34-119-23358-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Tucker 3G
6.
7. Muskingum OH
8. 6.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79-06552
2. 34-119-23218-0014-
3. 108
4. Guernsey Petroluem Corp.
5. Mitchell 2O
6.
7. Muskingum OH
8. 8.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79-06553
2. 34-059-22043-0014-
3. 108
4. Guernsey Petroleum Corp.
5. Galbraith-Hollinsworth 1-MD
6.
7. Guernsey OH
8. 10.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79-06554
2. 34-121-21935-0014-
3. 108
4. Guernsey Petroleum Corp.
5. Robert Calf 1 MC
6.
7. Noble OH
8. 11.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79-06555
2. 34-059-21974-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Beal et al 1MC
6.
7. Guernsey OH
8. 7.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79-06556
2. 34-059-21969-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Galbraith 1MC
6.
7. Guernsey OH
8. 11.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79-06557
2. 34-121-21906-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 12-MC
6.
7. Noble OH
8. 8.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79-06558
2. 34-119-23800-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Lyon 6MC
6.
7. Muskingum OH
8. 6.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79-06559
2. 34-083-22574-0014-
3. 103
4. Berwell Energy Inc
5. Floyd Mickley No. 3
6.
7. Knox OH
8. 36.0 million cubic feet
9. May 18, 1979
10. Ohio Cumberland Gas Company

1. 79-06560
2. 34-083-22572-0014-
3. 103
4. Berwell Energy Inc
5. Floyd Mickley No. 2
6.
7. Knox OH
8. 48.0 million cubic feet
9. May 18, 1979
10. Ohio Cumberland Gas Company

1. 79-06561
2. 34-121-21844-0014-
3. 108
4. Guernsey Petroleum Corp
5. Archie Priestly 1-MC
6.
7. Noble OH
8. 8.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79-06562
2. 34-059-21810-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 21G
6.
7. Guernsey OH
8. 6.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Co.

1. 79-06563
2. 34-059-21809-0014-
3. 108
4. Guernsey Petroleum Corporation
5. Ohio Power 20G
6.
7. Guernsey OH
8. 5.0 million cubic feet
9. May 18, 1979

10. East Ohio Gas Co.
1. 79–06564
2. 34–151–22891–0014–
3. 103
4. Belden & Blake and Co. L P No. 70
5. L. Schlabach #1–858
6.
7. Stark OH
8. 10.0 million cubic feet
9. May 18, 1979
10.
1. 79–06565
2. 34–151–22021–0014–
3. 103
4. Belden & Blake and Co. L P No. 70
5. K. Zellers #1–868
6.
7. Stark OH
8. 10.0 million cubic feet
9. May 18, 1979
10.
1. 79–06566
2. 34–019–21230–0014–
3. 103
4. L & M Exploration, Inc.
5. McCarty #3
6.
7. Carroll OH
8. 7.0 million cubic feet
9. May 18, 1979
10. Bonanza Gas Line
1. 79–06567
2. 34–099–21067–0014–
3. 103
4. SPS Technologies, Inc.
5. Lucille Jordan #1
6.
7. Mahoning OH
8. 27.0 million cubic feet
9. May 18, 1979
10. The East Ohio Gas Company
1. 79–6568
2. 34–099–21073–0014–
3. 103
4. SPS Technologies, Inc.
5. 46 Venture #1—A
6.
7. Mahoning OH
8. 27.0 million cubic feet
9. May 18, 1979
10. East Ohio Gas Company

Applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the **Federal Register.**

Please reference the FERC control number in all correspondence related to these determinations.

Kennth F. Plumb,

Secretary.

[FR Doc. 79–20395 Filed 6–29–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. RI77–26]

J & J Enterprises, Inc., et al.; Petition for Inclusion of Additional Small Producers as Parties to Settlement Agreement

June 20, 1979.

Take notice that on November 29, 1978, Bissett Construction Oil & Gas Company, Flanigan Brothers, Hanley & Bird, King Oil & Gas, Kenneth P. Milliken (Petitioners) filed a petition seeking permission to become parties to the settlement agreement approved by the Commission in an order, in the above-captioned docket, dated April 25, 1978. All petitioners are small producers.

Under the above-mentioned settlement agreement and Commission order, thirty three small producers were permitted to sell to Columbia Gas Transmission Corporation, Consolidated Gas Supply Corporation, and National Fuel Gas Supply Corporation their gas produced in Pennsylvania from stripper wells, as defined in the April 25, 1978 order, at a rate of 61¢ per Mcf at 14.73 psia, and they were permitted further to charge the then applicable national rates for all gas from other wells dedicated to specific contracts, as defined in the April 25, 1978 order, plus appropriate adjustments.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before June 29, 1979 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any per wishing to become a party to a proceeding or to participate as party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–20392 Filed 6–29–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. RA79–25]

Melvin Klotzman and Jess Pendleton d.b.a. Victoria Equipment & Supply Corp.; Filing of Petition

June 20, 1979.

Take notice that Melvin Klotzman and Jess Pendleton d.b.a. Victoria Equipment and Supply Company on April 27, 1979, filed a petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before July 9, 1979, file a patition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–20393 Filed 6–29–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. GP79–36]

State of Montana; Preliminary Finding

June 15, 1979.

On May 4, 1979, the Montana Board of Oil and Gas Conservation submitted to the Commission a notice of determination which states that eight Shell Oil Company wells[1] meet all the

[1] Sheetz 21X–29 (JD79–4390), BN 22–17 (JD79–4386), Moore 23–24 (JD79–4385), Swigart 24X–8 (JD79–4394), Carleton 13X–5 (JD79–4392), BN 21X–25 (JD79–4387), BN 33X–35 (JD79–4391) Swigart 24X–8 (JD79–4388).

requirements of the new onshore reservoir provision in section 102(c)(1)(C) of the Natural Gas Policy Act of 1978 (NGPA), Publ L. No. 95-621. The Commission published the notice of the determination in the **Federal Register** on May 29, 1979.

According to section 102(c)(1)(C)(ii) of the NGPA, a reservoir shall not qualify as a new onshore reservoir if, among other things, natural gas could have been produced in commercial quantities from such reservoir through the old well before April 20, 1977.

The records show that the Madison Reservoir was penetrated by three old wells (USA 34A-31-1, Swigart 24X-8, and BN 22-17) and produced oil in commercial quantities prior to April 20, 1977. The records further show that the Ordovician Reservoir was penetrated by two old wells (BN 21X-5 and Swigart 24X-8) and produced oil in commercial quantities prior to April 20, 1977. The casinghead gas produced from both reservoirs in conjunction with the production of oil was flared until the wells were connected to a processing facility in 1978.

Since both reservoirs were penetrated by old wells and demonstrated their capability to produce natural gas, the reservoirs are subject to the behind-the-pipe exclusion in section 102(c)(1)(C)(ii) and are not new onshore reservoirs as defined in the NGPA.

Accordingly, the Commission hereby makes a preliminary finding (pursuant to section 275.202(a)(1)(c)) that the determination submitted by the Montana Board of Oil and Gas Conservation is not supported by substantial evidence in the record on which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-20394 Filed 6-29-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1256-1]

California State Motor Vehicle; Pollution Control Standards; Waiver of Federal Preemption

I. Introduction and Background

By this decision, issued under section 209(b) of the Clean Air Act, as amended (hereinafter the "Act"),[1] I am granting the State of California a waiver of Federal preemption to enforce its highway cycle NOx regulation for 1980 and subsequent model year passenger cars and for 1981 and subsequent model year light duty trucks and medium duty vehicles.

On January 25, 1978, and April 10, 1978, the California Air Resources Board (CARB) adopted regulations establishing, as a prerequisite to California certification, a limit on the maximum emissions of oxides of nitrogen (NOx), as measured on the Federal Highway Fuel Economy Test (HwFET).[2] The emissions, with the deterioration factors applied, for 1980 and subsequent model year passenger cars cannot exceed 1.33 times the applicable NOx standards.[3] For 1981 and subsequent model year light duty trucks and medium duty vehicles, the limit is 2.00 times the applicable NOx standards.[4] If one or more exhaust emission data vehicles fails to meet these emission limits, the manufacturer may submit engineering data or other evidence showing that the system is capable of complying with the established HwFET value. The CARB Executive Officer may determine, on the basis of an engineering evaluation of this data or evidence, that the system complies with the applicable emission limitation even though the emission data vehicle failed under the particular HwFET.[5]

Pursuant to notice published in the **Federal Register**, a public hearing was held on May 18, 1978, by the Environmental Protection Agency (EPA) to consider the California regualtions.[6] At that hearing, the question arose as to whether the regulations prescribe "standards" or "accompanying enforcement procedures."[7] The resolution of this issue will determine the criteria under which I must evaluate this waiver request.

Because CARB has established quantitative limitations on the amount of NOx emissions that may be emitted under conditions represented by the HwFET as a prerequisite to certification, I have determined that CARB's regulations prescribe "standards." After initially labeling the limitations as standards, CARB concluded that it had adopted "accompanying enforcing procedures"[8] intended to "prevent the use of defeat devices which would hinder the effectiveness of the underlying standards."[9] Ford Motor Company (Ford) contended that the regulation constituted new standards.[10]

However, my determination is based not upon the underlying intent of the regulations, nor is it dictated by the label placed upon them by any party to the hearings.[11] Rather, it is based upon the fact that compliance with the regulations requires a showing that the vehicle is capable of complying with particular emission limitations.

Because certification testing conducted under the Federal Test Procedure (FTP) does not reflect all normal driving conditions, California's regulation limits the quantity of NOx emissions that may be emitted under highway driving conditions to assure continuous emission reduction. Manufacturers are required to demonstrate that vehicles operated under particular highway conditions, i.e., those represented by the HwFET, are capable of complying with the prescribed numerical value. This demonstration may be made through submission of the Federally conducted HwFET results, or engineering data or other evidence.

Even though the prescribed numerical values are derived from the underlying NOx standards for which a waiver of Federal preemption already has been granted and the amount of control necessary is believed to be essentially identical,[12] the regulation nevertheless prescribes new quantitative limitations. Compliance with the limitations must be demonstrated through vehicle emission test data or other evidence showing that the system meets the applicable HwFET value, a requirement which is entirely separate from demonstration of compliance with the underlying NOx standard.

The Supreme Court's recent interpretation of the term "standard" as a "quantitative level" to be attained by use of "techniques", "controls" and "technology"[13] supports this interpretation, since the regulations require attainment of quantitative levels of control, to be demonstrated under previously untested driving conditions.

II. Discussion

Accordingly, my review of this waiver request is based upon the criteria under section 209(b) of the Act for which a state's adoption of standards is to be reviewed. Under that section, the Administrator is required to grant the State of California a waiver of Federal preemption, after opportunity for a public hearing, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards. A waiver cannot be granted if I find that the determination of the State of California is arbitrary and capricious, that the State does not need such State standards to meet compelling and extraordinary conditions, or that such State standards and accompanying enforcement procedures are not

consistent with section 202(a) of the Act. State standards and enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within that time frame, or if the Federal and California certification procedures are inconsistent. For the reasons given below, I have concluded that I cannot make the findings required for the denial of the waiver under section 209(b) of the Act in the case of these California standards.

Public Health and Welfare

Under one of the criteria of section 209(b) of the Act, I cannot grant a waiver if I find that California's determination that its "standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards" is arbitrary and capricious. California made the requisite determination,[14] and the public record did not contain any evidence that this regulation would cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards.

Moreover, because no comparable Federal Standard exists, California's regulation must be viewed as being at least as protective of public health and welfare. Although EPA recently established Federal NOx guideline values under the HwFET, EPA uses the guideline values in a manner different from California's.

EPA's treatment of highway NOx emissions differs in that manufacturers cannot obtain Federal certificates of conformity for vehicles equipped with "defeat devices", auxiliary emission control devices (AECD's) determined by EPA to reduce the effectiveness of emission control systems under normal driving conditions not reflected in certification testing conducted under the Federal Test Procedure.[15] In order for EPA to determine whether or not an AECD is a defeat device, manufacutrers have been required to describe all AECD's in applications for certification.[16] The Federal NOx guideline values were established to provide a manufacturer seeking Federal certification with objective criteria that it may use at its *option* to demonstrate that an AECD is not a defeat device.[17] Thus, whether a manufacturer describes the AECD or submits HwFET results, it must show that the system does not contain defeat devices.

In contrast, California's treatment establishes NOx values which are direct limitations on NOx emissions during the HwFET. Though a manufacturer may exercise certain options, compliance with the California requirements requires a manufacturer, in all cases, to demonstrate compliance with a quantitative limitation. Therefore, the Federal NOx guideline values cannot be considered comparable Federal standards in regard to the California highway NOx limitations.

For these reasons, I cannot conclude that California's public health and welfare determination is arbitrary and capricious.

Need and Compelling Conditions

Under the second criteria of section 209(b) of the Act, I cannot grant a waiver if I find that the State does not need such State standards to meet compelling and extraordinary conditions. A number of manufacturers argued that California did not need these regulations and that California had not demonstrated an associated air quality benefit.[18]

However, my review of California's action under section 209(b)(1)(B) is not based upon whether California has demonstrated a need for the particular regulations, but upon whether California needs standards to meet compelling and extraordinary conditions. This test focuses on the conditions in California that are the prerequisite for its establishing its own standards, as opposed to whether those conditions dictate each facet of a program surrounding the adoption of a standard. California has presented evidence of an extraordinary problem with NOx emissions [19] which no party to the hearing disputed.

Even assuming that my review should be based upon California's demonstration of the need for adoption of the particular standard, data submitted by CARB [20] support the necessity for an additional test to ensure the effectiveness of a vehicle's NOx emission control under highway driving conditions.[21]

For these reasons, I cannot conclude that California does not need the subject standards to meet compelling and extraordinary conditions.

Certification and Test Procedures

Under section 209(b), I also cannot grant a waiver if I find that California certification and test procedures conflict with the corresponding Federal procedures. General Motors Corporation (GM) expressed its concern that EPA may adopt an inconsistent requirement and suggested that I withhold a waiver decision until each agency adopts uniform criteria.[22] American Motors Corporation (AMC) argued that California's highway NOx regulations are inconsistent with Executive Order 12044 which stated that regulations shall achieve legislative goals effectively and efficiently without imposing unnecessary burdens.[23]

Since the time that these arguments were raised, EPA has adopted the optional objective criteria for EPA's evaluation of AECD's.[24] However, as discussed above, this is provided as an option for manufacturers, and is not a comparable Federal requirement. Thus, there is no inconsistency between the California and Federal regulations.

Even assuming a comparable Federal requirement was adopted, no inquiry need be made on the consistency between California and Federal highway NOx requirements due to the effect of section 209(b)(3). That section provides that "in the case of any new motor vehicle engine to which State standards apply pursuant to a waiver granted under paragraph (1), compliance with such State standards shall be treated as compliance with applicable Federal standards for purposes of this title."

EPA has interpreted this to mean that if a vehicle required to meet California standards (i.e., a vehicle intended for sale in California) meets those standards, it will be treated as meeting the Federal standards, and that cars not required to meet State standards must meet the Federal standards.[25] Because vehicles intended for sale in California, are deemed to comply with Federal highway NOx requirements if they are in compliance with California's highway NOx requirements, no conflict arises between California and Federal standards or certification and test procedures.

Technology and Lead Time

Under section 209(b), I cannot grant a waiver if I find that California standards and accompanying enforcement procedures are not consistent with section 202(a). Section 202(a)(2) states that standards promulgated under its authority "shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period." In order for California standards to be consistent with section 202(a), it is not required that the requisite technology be developed at present. Rather, the

available lead time must appear to be sufficient to permit the development and application of that technology.[26]

As the Administrator has consistently held, the manufacturers have the burden of demonstrating the existence of conditions which warrant denial of the waiver request.[27] Ford has argued that the Administrator bears the burden to make a positive finding regarding the availability of technology and lead time based on an objective analysis of available data. If no data is available, Ford submits that I must deny the waiver request.[28] I cannot agree with this interpretation.

Ford argues that the Act and general principles of administrative law, which place the burden of proof on the proponent, place the burden of proof on California to show that it is entitled to a waiver and the burden to make a positive finding on EPA.[29] This contention ignores the language and structure of Section 209(b) and is totally unsupported by the legislative history of both the original and the amended version of the Clean Air Act.

The language of Section 209(b) is mandatory:

> The Administrator *shall*, after notice and opportunity for public hearing, *waive application of this section* to [California], if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. [Emphasis added.]

A waiver *must* be granted *unless* the Administrator makes one of the three findings in Subsections 209(b)(1)(A)–(C).[G1]

Section 209(b)(1) contains only two prerequisites for the granting of a waiver: (1) EPA must give notice and opportunity for public hearing; and (2) California, when adopting standards, must make a public health and welfare determination. Nowhere does the language state or even imply that California bears a burden of proof or that EPA must make affirmative findings of any kind in granting a waiver.

The legislative history of the California waiver provision strongly supports the Administrator's holding that the burden does not fall on California or EPA to support a waiver request.[31] Congress, in adopting the provision,[32] *rejected* a House proposal which would have placed the burden on California to demonstrate, and on the Administrator to find, that California met the requirements for a waiver of federal preemption.[33] As the Act was passed, any party opposing the waiver would bear the burden of proof:

> As approved by the Senate, section 209(b) in effect would exempt California from the bill's requirement that States conform to the Federal auto emission standards. The burden would be on the Secretary [now the Administrator] to show why California, which already has a successful anti-pollution law of its own, should not be allowed to go beyond the Federal limitations in adopting and enforcing its own standards.[34]

So long as California makes a public health and welfare determination (where required), the Administrator may not deny a waiver request unless the public record contains data on which the Administrator may base findings under Section 209(b)(1)(A), (B) or (C).

Ford also argues that *International Harvester Company* v. *Ruckelshaus*[35] supports its contention that I am required to make a positive finding.[36] However, *International Harvester* supports the position that the manufacturers bear the burden of proof.

In *International Harvester*, the Court recognized that the statutory provision, like the waiver provision in this case, placed the initial burden on the manufacturers who possess "the data about emission performance of their cars."[37] In that case, however, the Administrator rejected the manufacturer's data and relied, instead, on his own methodology in determining that the manufacturers had not shown certain standards to be technologically infeasible. By employing his own methodology, the Administrator became the party possessing the necessary knowledge and expertise and had to ear the burden of proof.[38] In other words, the burden shifed in *International Harvester* because "the regulatory administrative agency reject[ed] both the method and the results of an expert body and substitute[d] arbitrarily its own method and prediction."[39] In considering a California waiver request, the Adminstrator does not rely on his own methodology, but rather on findings made by California, data from the manufacturers challenging those findings and data from other sources. Unlike the situation in *International Harvester*, the Administrator is not substituting his own judgment for that of the manufacturers, so that the burden of proof remains on the manufacturers. In weighing all of the relevant data submitted, the determination to be made is whether the evidence could support a finding of technological infeasibility.

Finally, Ford seeks to support its position by citing EPA's finding in a prior waiver decision that California failed to meet its burden of proof.[40] However, the decision cited by Ford involved a waiver request in which the manufacturers had overcome their initial burden of proof. The public record indicated that the manufacturers had insufficient lead time to meet California's 1979 heavy duty standards and test requirements.[41] The Administrator held that "the industry has met its burden of proof" on the lead time issue, and made reference to CARB testimony in this context only with respect to California's failure to refute the manufacturers' lead time claims.[42]

Even though the manufacturers' demonstration of lack of sufficient lead time had operated to shift the burden to California to show availability of adequate lead time, the manufacturers still had the initial burden of proof. California need not prove technological feasibility, as contended by Ford,[43] unless the manufacturers present sufficient evidence of infeasibility.

In considering the manufacturers' substantive comments on the technological feasibility of meeting the highway NOx requirements, I am not addressing their ability to meet the underlying NOx standards,[44] but rather their ability to comply with the new standards.

General Motors stated that it presently believed it could meet the highway NOx requirements.[45] Chrysler expressed concern that the highway NOx requirement would increase the complexity of the 1980 model year cerification, making certification that much more difficult to obtain. Chrysler also asserted that the short time period remaining before the start of 1980 certification provides insufficient lead time in this case as a matter of law.[46] However, Chrysler stated that it was confident that it would be able to comply with this requirement in the 1980 model year, and that its current information showed NOx emissions under the highway conditions to be substantially below those under the FTP.[47] Since GM and Chrysler have stated an ability to comply in the 1980 model year, I cannot find that insufficient lead time exists in which to implement the necessary technology to meet this standard in the 1980 model year.

Ford argued that I could not conclude that California sustained its burden of establishing the technological feasibility of the highway NOx requirements, the underlying NOx standards or the ratios used to compute the highway NOx limitation.[48] I previously have addressed Ford's burden of proof argument and the contention that I must review the feasibility of reaching the underlying NOx standards. I have reviewed the test

See footnotes at end of article.

data For has presented to support its claim that the high variability in highway NOx emissions renders the highway NOx requirements technologically infeasible, particularly for 1982 and subsequent model year passenger cars.[49]

In the event that testing variability leads to a failure, Ford is not precluded from submitting engineering data or other evidence in order to demonstrate compliance.[50] With regard to the 1980 and 1981 model year passenger cars, data presented by the CARB based on currently available technology and the comments made by General Motors and Chrysler, mentioned above, indicate that compliance with the requirements is technologically feasible.[51] In light of these factors, I cannot find sufficient grounds on which to based a finding of technological infeasibility within the remaining lead time.

With regard to 1982 and subsequent model year passenger cars, the manufacturers, particularly Ford and Chrysler, base their objections on the uncertainty of the method to be used to meet the more stringent underlying standards, which in turn affects their ability to meet the highway NOx requirement.[52] Because almost three years of lead time remain before the start of that model year, I cannot presently find that these uncertainties in complying with the highway NOx requirements due to uncertainties in complying with the underlying standards, will not be resolved. Although I cannot find sufficient grounds for denying the waiver request at this time, the CARB has correctly pointed out that this issue may be readdressed in the future in either a State or Federal forum if evidence of technological infeasibility becomes available.[53]

Ford and AMC presented another lead time objection focusing on the time required to develop and complete the necessary testing program.[54] These objections are not well founded for two reasons. California requires highway NOx testing only for those exhaust emission data vehicles tested in accordance with the HwFET.[55] Therefore, this requirement does not impose a new testing burden. Also, as discussed above, CARB will consider engineering data or other evidence in the event an emission data vehicle fails the test. This latter provision was specifically included to alleviate any lead time concerns associated with increased testing requirements.[56]

Ford also contended that California's action could have the effect of increasing the stringency of the underlying NOx standards.[57] However, the discussion cited by Ford as supporting its claim [58] actually is an expression by the CARB that the regulation will provide the same degree of NOx control under both city and highway driving conditions.[59] Neither this reference nor any other evidence in the record supports Ford's contention.

Based on the foregoing analysis, I cannot find inadequate lead time remaining to permit the development and application of the requisite technology.

Cost of Compliance

The manufacturers presented no information with respect to direct costs of compliance. According to CARB, the regulations might entail some additional engineering costs in the area of system calibration, but the CARB did not foresee any major system design costs.[60]

I also have considered the fuel economy impact of the regulation as a cost factor. Ford and Chrysler contended that I must consider fuel economy penalties in weighing technological feasibility as well as cost of compliance.[61] As I have previously held,[62] and as noted by the CARB,[63] Congress intended that any conflicts between the California emission standards and Federal fuel economy requirements be resolved through a reconsideration by the Secretary of Transportation of the average fuel economy standard in light of the California emission standards.[64] Therefore, fuel economy penalties are only relevant to my consideration of the cost of compliance with the regulations. Although noted as a potential problem by several manufacturers,[65] no one presented data demonstrating adverse effects on fuel economy resulting from compliance with this regulation.

Accordingly, I cannot find that the costs of compliance are so excessive as to warrant a denial of a waiver on these grounds.

III. Findings and Decision

Having given due consideration to the public record, I have determined that I cannot make the findings required for a denial of a waiver under section 209(b)(1) of the Act. Therefore, I hereby waive application of section 209(a) of the Act to the State of California with respect to its highway cycle NOx regulation for 1980 and subsequent model year passenger cars and 1981 and subsequent model year light duty trucks and medium duty vehicles. The waived regulation is set forth in section 1960(a) of Title 13 of the California Administrative Code and paragraphs 4(f) and 5(f) of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium Duty Vehicles," as amended April 10, 1978.

My decision to grant the waiver will affect not only persons in California but also the manufacturers located outside the State who must comply with California's procedures in order to produce motor vehicles for sale in California. For this reason I hereby determine and find that this decision is of nationwide scope and effect.

A copy of the above standards and procedures, as well as the record of these hearings and those documents used in arriving at this decision, are available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, California 95812.

Dated: June 22, 1979.

Barbara Blum,

Acting Administrator.

Footnotes

[1] 42 U.S.C. 7543(b) (1977).

[2] 40 CFR Part 600, Subpart B. The HwFET is required by EPA on all emissions data certification vehicles for Federal certification and is used to generate "highway" fuel economy values.

[3] The "underlying" NOx standards for passenger cars, light-duty trucks, and medium duty vehicles are set forth in section 1960(a) of Title 13 of the California Administrative Code, as amended September 30, 1977. California has received a waiver of Federal preemption for these standards. *See* note 15, *infra.*

[4] 13 Cal. Admin. Code § 1960(a), as amended April 10, 1978; Paragraphs 4(f) and 5(f), "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended April 10, 1978 [hereinafter "1980 Test Procedures ¶———————"].

[5] 1980 Test Procedures ¶5(f).

[6] 43 FR 17044 (April 21, 1978); 43 FR 19447 (May 5, 1978).

[7] Transcript of California Waiver Hearing 24 (May 18, 1978) [hereinafter "Tr."].

[8] Letter from Kingsley Macomber, General Counsel, California Air Resources Board (CARB), to Benjamin R. Jackson, Director, Mobile Source Enforcement Division (MSED), EPA, 5 (June 16, 1978) [hereinafter "CARB June 16, 1978 Letter"]; State of California Air Resources Board, *Staff Report No. 78-1-2*, at

8–16, 18–23 (December 23, 1977) [hereinafter "Staff Report No. 78–1–2"].

[9] Id.

[10] Helen O. Petrauskas, Thomas L. Saybolt, "Memorandum of Ford Motor Company," 5–11 (June 16, 1978) [hereinafter "Ford Memorandum"].

[11] *See Columbia Broadcasting System* v. *United States*, 316 U.S. 407, 416 (1942).

[12] *See* 43 FR 25729 (June 14, 1978) pertaining to 1980 and subsequent model year passenger cars; 43 FR 1829 (January 12, 1978) pertaining to 1981–1982 light duty trucks and medium duty vehicles; 43 Fed. Reg. 15490 (April 13, 1978) pertaining to 1983 and subsequent model year light duty trucks and medium duty vehicles.

[13] *Adamo Wrecking Co.* v. *United States* ——— *U.S.* ———, 98 S.Ct. 566, 579, 54 L.Ed.2d 538, 549 (1978).

[14] State of California Air Resources Board, *Resolution 78–4* at 2 (January 25, 1978); *Staff Report No. 78–1–2* at 25.

[15] U.S. Environmental Protection Agency (EPA), Mobile Source Pollution Control Advisory Circular No. 24, "Prohibition of Use of Emission Control Defeat Devices" (December 11, 1972) (hereinafter "A/C No. 24"). A complete definition of "Defeat Device" appears in A/C No. 24 at 2.

[16] A/C No. 24 at 3.

[17] U.S. EPA, Office of Mobile Source Air Pollution Control Advisory Circular No. 24–2, "Prohibition of Emission Control Defeat Devices—Optional Objective Criteria", December 6, 1978 (hereinafter "A/C No. 24–2"). The guideline HwFET NOx values are 1.22 times the applicable the applicable FTP NOx standard for light duty vehicles and 1.28 times the applicable FTP NOx standard for light duty trucks. A/C No. 24–2 at 3.

[18] Tr. 64–68, 89–91, 128; "American Motors Corporation Comments to the May 18, 1978 EPA Waiver Hearing on the California Highway Cycle NOx Standard" [hereinafter "AMC's EPA Submission"] at 1–2, submitted with AMC May 9, 1978 Letter (see note 23, infra.).

[19] Tr. 20–22.

[20] Tr. 12–14, 19–20, *Staff Report No. 78–1–2* at 1–16, 18, 23–25; CARB June 16, 1978 Letter 2–3.

[21] *Staff Report No.* 78–1–2 at 1–10, 16, 18.

[22] Tr. 9–92, 103–104.

[23] "American Motors Corporation Response To The California Air Resource Board Proposed Highway Cycle Emissions Standards For the 1980 and Later Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles", submitted with Letter from Stuart R. Perkins, Director Vehicle Emissions and Fuel Economy, American Motors Corporation to Mr. Benjamin R. Jackson, Director MSED, EPA (May 9, 1978) [hereinafter "AMC May 9, 1978 Letter"].

[24] See note 17, *supra*.

[25] Letter from Douglas M. Costle, Administrator, EPA, to D. A. Jensen, Director, Automotive Emissions and Fuel Economy Office, Ford Motor Company at 2 (November 1, 1978).

[26] *See* 41 FR 44209, 44210 (October 7, 1976).

[27] 40 FR 30311, 30314 (July 18, 1975); 42 FR 25755, 25756 (May 19, 1977); 43 FR 32182, 32184 (July 17, 1978).

[28] Tr. 129, 136; Ford Memorandum 12–13; See generally Tr. 29, 134–137; Ford Memorandum 12–17.

[29] Ford Memorandum 12–13.

[30] 42 U.S.C. § 7543(b)(1) (1977). Under Section 209(b)(1), the Administrator may only deny a waiver request if he finds that:

(A) the determination of the State is arbitrary and capricious,

(B) such State does not need such State standards to meet compelling and extraordinary conditions, or

(C) such State standards and accompanying enforcement procedures are not consistent with section 202(a) of this part.

[31] S. Rep. No. 403, 90th Cong., 1st Sess. 33–34 (1967).

[32] Pub L. No. 90–148, 81 Stat. 485, 501 (1967); 113 Cong. Rec. 32475 (1967).

[33] H.R. Rep. No. 728, 90th Cong. 1st Sess. 21–23, 69 (1967); *but see* "Separate Views of Messrs. John E. Moss and Lionel Van Deerlin on S. 780, The Air Quality Act of 1967," *id.* at 96–97.

[34] *Id.* at 96.

[35] *International Harvester Co.* v. *Ruckelshaus* 478 F.2d 615 (D.C. Cir. 1973).

[36] Tr. 134–136; Ford Memorandum 13–15.

[37] *International Harvester Co.* v. *Ruckelshaus, supra* note 35, at 642.

[38] *Id.* at 642.

[39] *Association of American Publishers, Inc.* v. *Governors of the United States Postal Service*, 485 F.2d 768, 773 (D.C. Cir. 1973).

[40] Tr. 136; Ford Memorandum 15.

[41] Transcript of California Waiver Hearing (January 27, 1977).

[42] 42 FR 31639, 31640 (June 22, 1978).

[43] Ford Memorandum 21; Tr. 129.

[44] I have already reviewed the feasibility of meeting the underlying NOx standards in earlier waiver decisions. *See* note 12, *supra*.

[45] Tr. 101–102.

[46] Tr. 67, 71, 73–76.

[47] Tr. 68–69, 78.

[48] Ford Memorandum 21.

[49] Tr. 126–127; "Technical Questions Concerning Highway NOx Emissions Left Open at the May 18 California Waiver Hearing," #42, submitted with a letter from Mr. D. A. Jensen, Director, Automotive Emissions and Fuel Economy Office, Ford Motor Company, to Mr. Benjamin R. Jackson, Director, MSED, EPA (June 21, 1978) [hereinafter "Ford June 21, 1978 Letter"]; Ford Memorandum 23–23. *See* "Statement of Donald A. Jensen, Director, Automotive Emissions and Fuel Economy Office, Ford Motor Company, at EPA Public Hearing Regarding California Request for Waiver of Preemption on its Highway Cycle NOx Emission Standards for 1980 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium Duty Vehicles," Attachments B & C (May 18, 1978); Letter from Mr. D. C. Kulp of Ford to Mr. B. R. Patok of EPA, Attachment IV (May 18, 1978) attached to Ford June 21, 1978 Letter.

[50] 1980 Test Procedures ¶5f; Tr. 16.

[51] *See Staff Report No. 78–1–2* at 16–20; Tr. 17–18, 172–173; CARB June 16, 1978 Letter at 4 and Attachments I & II.

[52] Tr. 127, 128; (Ford); Tr. 168–178 (Chrysler).

[53] CARB June 16, 1978 Letter.

[54] Tr. 128; Ford Memorandum 21; AMC May 9, 1978 Letter, 3–4.

[55] 1980 Test Procedures ¶5f. All emission data vehicles must be tested for highway fuel economy. *See* 40 CFR §§ 86.078–24(b), 600.002–77(a)(15), 600.010–77(a)(2).

[56] 1980 Test Procedures ¶5f; Tr. 16.

[57] Ford Memorandum 23.

[58] *Id.*

[59] *See* Tr. 21.

[60] *Staff Report 78–1–2* at 25.

[61] Ford Memorandum 18–20; Tr. 70.

[62] 43 FR 1829, 1831 (January 12, 1978).

[63] CARB June 16, 1978 Letter at 6 and Attachment II–A.

[64] 15 U.S.C. § 2002(b), (d), (e), (f) (1975); S. Rep. No. 94–516, 94th Cong., 1st Sess. 149–156 (1975).

[65] Tr. 69, 91, 128; "American Motor Corporation Comments to the May 18, 1978 EPA Waiver Hearing on the California Highway Cycle NOx Standard" at 2, submitted with AMC May 9, 1978 Letter.

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[FRL 1214–4]

Indoor Radiation Exposure Due to Radium–226 in Florida Phosphate Lands; Radiation Protection Recommendations and Request for Comment

The Environmental Protection Agency has undertaken, at the request of the Government of Florida, an investigation of indoor radiation exposure due to radium–226 in Florida phosphate lands. This investigation is now completed and the Agency publishes here its letter to the Governor setting forth its findings and recommendations, as well as a summary of an accompanying technical report. Single copies of this technical report, which details the basis for the recommendations and the Agency's findings regarding its field studies, may be obtained on request from the Director at the address below or from any EPA Regional Office.

The text of the Agency's letter follows:

Dear Governor:

On September 22, 1975, former EPA Administrator Russell E. Train wrote former Governor Askew concerning radiological impacts associated with residences constructed on phosphate lands.

Since that time, the U.S. Environmental Protection Agency and the Florida Department of Health and Rehabilitative Services have conducted independent but cooperative assessments of the situation. Both agencies have monitored individual Florida residences to determine levels of public exposure to radiation from radon gas decay products and gamma rays. We have also reviewed the health risks associated with chronic exposures to these agents. Using this information, EPA has evaluated the public health risk to Florida residents who

live in homes having elevated levels of radiation. Finally, we have identified and evaluated various control measures that could be taken to reduce indoor exposure levels and have estimated the costs likely to be associated with implementing such control measures.

My purpose in writing to you is twofold: first, to apprise you of the results of the U.S. EPA's recent study; and second, to present our recommendations regarding remedial actions that should be implemented in existing residences and also our recommendations concerning steps that should be taken to prevent public health hazards in new residences on as yet undeveloped lands.

I will begin by summarizing briefly the results of our study. More complete discussions, including the analyses which have been conducted, the assumptions which have been made, and the limitations of the analyses, are included in the enclosed "Summary of Technical Information" and detailed technical report "Indoor Radiation Exposure Due to Radium–226 in Florida Phosphate Lands." Our findings are as follows:

1. Many Florida residents who live in homes constructed on phosphate lands are exposed to levels of radioactivity which are significantly higher than normal background levels.

2. The principal radiation health threat to these residents is an increased risk of lung cancer resulting from exposure to elevated levels of radon gas decay products. The excess risk of lung cancer to these residents is dependent both on the indoor concentration of radon decay products and on the period of exposure. Specifically, it is assumed to be proportioned to the accumulated radiation dose resulting from the radon decay product exposure. In addition, it is prudent to assume that smokers and children are at greater risk than are average members of the population.

3. The EPA risk assessment analysis projects that over a 70-year (normal lifetime) period, exposure to the estimated 14,000 persons residing in approximately 4,000 Florida homes estimated to exist on phosphate lands to elevated levels of radon gas would result in approximately 150 lung cancer deaths in excess of the normal incidence of that disease. The observed incidence of fatal lung cancer in the U.S. is 3%; thus, 420 deaths from this cause would be expected in a population of some 14,000 individuals. Our analyses indicate, therefore, that persons living for a lifetime in these homes would experience an average risk of lung cancer that is roughly 35% greater than the normal risk based on U.S. health statistics.

4. Those residents who live in homes which exhibit the highest levels of radon gas contamination will experience even greater risk of lung cancer. For example, 15% of the Florida homes built on reclaimed phosphate lands were found to have an indoor radion gas concentration ranging from 0.03 to 0.10 Working Level units, or 8–25 times normal background levels. Residents who live a lifetime in these homes could experience a risk of lung cancer which is 2–4 times the average risk to a member of the U.S. population.

5. These risk projections are based on lung cancer data available from epidemiological studies of occupational workers (uranium miners and others) who have been exposed to radon decay products. While there are uncertainties associated with extrapolating these statistics to a residential population, we nevertheless believe that based on current information the risk calculations which we have made are reasonable approximations of the existing risk. We recognize also that "normal" lung cancer induction can be associated with many other agents, such as cigarette smoking, chemicals, and normal background radiation (including radon daughters). It is our conclusion, however, that these risk projections are appropriate for use as a basis for decisions on remedial actions for existing Florida residences built on phosphate lands and on preventative actions regarding lands on which future development is comtemplated.

6. There are control measures which can be implemented, where needed, in existing residences at a reasonable cost and which will significantly reduce indoor radon decay product concentrations. These are described in the accompanying technical report and its references and include such measures as sealants, improved ventilation, air cleaners, construction with crawl space, and use of clean fill. The choice of the particular method appropriate for each situation will depend upon details of construction and the characteristics of the site. The cost of these control measures is expected to range from approximately $900–2600 per affected residence over a 70-year period.

7. Future residential development on phosphate lands is likely to result in a public health hazard unless appropriate land reclamation and preparation, as well as home siting and design requirements, are imposed. Steps can be taken to reduce radon daughter and gamma radiation to near-background levels; these preventative actions can generally be accomplished at costs appreciably less than those for remedial action, and are therefore not expected to lead to significant land use restrictions. However, careful and diligent attention to proper execution of design and siting requirements will be necessary. To assure adequate protection of residents of new homes on phosphate lands, it will be necessary to conduct careful measurement programs, as well as to require bonding or comparable assurances of further remediation in the event that design and siting requirements do not result in acceptably low levels of radon daughters and gamma radiation.

8. All of the risks we have identified are based on lifetime exposures. Thus, the situation in Florida does not represent an imminent crisis. However, it does warrant early attention and action. Appropriate State and local authorities should begin to deal with exposures in residences on phosphate lands as soon as possible, with the objective that necessary remedial actions be completed in an orderly fashion within the next few years. Particular attention should be focused initially (a) on those existing residences which exhibit the highest radon decay product concentration, and (b) on State and local government actions which will assure that further residential development of phosphate lands is not permitted unless adequate land reclamation and preparation measures or siting and design measures are implemented prior to initiation of construction.

In view of these findings, I recommend that remedial action be performed in order to reduce the exposure of residents of existing homes. In addition, appropriate preventative action should be taken to avoid excessive exposures in new homes built on as yet undeveloped phosphate lands. Explicit guidance on the levels at which action should be taken and the other factors which should be considered in providing this radiation protection for persons residing on phosphate lands is contained in the enclosed recommendations.

I appreciate the fact that matters relating to radiation exposure often receive intense public attention. For this reason, I believe it would be appropriate for the EPA to hold a public meeting in the affected Florida counties for the purpose of discussing the results and the recommendations of our study. If you concur, we would propose to coordinate this public meeting with State and County representatives with whom we have worked previously on the phosphate lands issue. A notice of these recommendations will appear shortly in the **Federal Register** requesting public comment on these recommendations.

We are most appreciative of the cooperation that we have had with agencies of the State of Florida in this effort. This has been helpful in the development of the technical information required to support these recommendations. I would be pleased to make the appropriate staff of our Office of Radiation Programs available to you and local authorities in their consideration of these recommendations.

Sincerely yours,

Douglas M. Costle.

Recommendations for Radiation Protection of Persons Residing on Phosphate Lands

Responsible authorities should take appropriate action to ensure that the following recommendations are implemented:

I. Remedial action should be taken in all residences in which the initial annual indoor air concentration of radon decay products exceeds 0.02 Working Level (WL), including normal indoor background.

II. When annual average air concentrations of radon decay products are less than 0.02 WL, remedial action required to reduce such concentrations to as low as reasonably achievable levels should be taken. Among the factors to be considered in determining the appropriate degree of reduction are the cost and effectiveness of available remedial measures, the health risk averted, the normal background level, the life expectancy of the structure, and measurement uncertainties.

III. Remedial action is not warranted in existing residences solely to reduce the indoor gamma radiation exposure rate.

IV. Development sites for new residences should be so selected and prepared, and the residences so designed and sited, that the annual average indoor air concentration of radon decay products and indoor gamma radiation exposure level do not exceed average normal indoor background levels, within the uncertainties of normal background variation and measurement capability.

Explanatory Notes

1. Since the effects of exposure to radon decay products are independent of the source of exposure and are assumed to be directly related to the exposure level, the recommendations are provided in terms of total exposure and require no correction for the naturally-occurring normal background contribution. Recognition of this contribution is required, however, in making a determination of the degree of reduction attainable and warranted by control measures at levels below 0.02 WL.

2. As noted above, no absolutely safe level can be assumed for exposure to radiation. Therefore, to assure adequate public health protection, Recommendation II advises that, whenever reasonable, action be taken to reduce any health risk. For practical reasons, remedial action to achieve significant reduction of risk will not usually be justified at annual average levels less than 0.005 WL above normal indoor background.

3. For the purpose of implementing Recommendation IV, EPA has estimated average normal indoor background levels to be about 0.004 WL and 6 μR/hr in unmineralized regions in Central Florida, and the combined uncertainty due to normal variations and measurement capability to be 0.005 WL and 5 μR/hr for current available techniques. "Normal indoor background" is defined as the characteristic indoor radiation level associated with land in the proximity of but not designated as phosphate lands (i.e., in the general sense, land which does not contain elevated concentrations of radionuclides). A supplementary determination of normal background by local authorities for specific regions may be appropriate if there is reason to believe the levels to be significantly different from these values.

4. These recommendations are intended for direct application to residences and other buildings occupied for long time periods. In considering remedial action for and in designing other structures, including schools and offices, appropriate differences in occupancy factors may be considered and the above recommendations modified accordingly. However, such consideration should be biased toward assuring public health protection.

5. In the implementation of these recommendations recognition should be given to the fact that, in general, preventive measures are easier to accomplish and less expensive than are corrective measures. Therefore, particular attention should be given to land development and construction factors prior to occupancy in order to attain the lowest reasonable radon decay product levels and indoor gamma exposure rates.

"Definitions—a. "Radon-222" or "radon" is the inert radioactive gas formed by the decay of radium-226.

b. "Short-lived radon decay products" (radon daughters) are radionuclides formed in the disintegration chain of radon-222 that have short half-lives. They are polonium-218, lead-214, bismuth-214 and polonium-214. They are also called RaA, RaB, RaC, and RaC', respectively.

c. "Working Level" (WL) is the unit describing any concentration of short-lived decay products of radon-222 in one liter of air which results in the release of 1.3×10^5 MeV of potential alpha energy.

d. "Working Level Month" (WLM) is the unit describing exposure to 1 working level for 170 hours (a working month), with appropriate adjustment made for assumed breathing rates. The sum of such exposure over months or years is expressed in Cumulative Working Level Months (CWLM).

e. "Roentgen" (R) is the special unit of exposure for gamma and x-rays which is equal to electrical charges density of 2.58×10^{-4} coulombs per kilogram of air. One μR is equal to 10^{-6} Roentgens.

f. "Phosphate lands" means reclaimed, debris, and unmined lands which contain phosphate resources. Concentrations of P_2O_5 in this land need not necessarily be of economically extractable levels."

The Agency welcomes comments on these findings and recommendations relative to indoor radon exposure in both Florida and in other areas in the Nation. Comments are also requested on the technical material summarized below, as well as on procedures for implementation of these recommendations. All comments should be received by October 1, 1979 and be addressed to: Director, Criteria and Standards Division (ANR–460), Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460. All written comments filed pursuant to this notice will be available for inspection and copying in the EPA Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C., during normal business hours.

For further information on this matter, contact Allan C. B. Richardson, Criteria and Standards Division (ANR–460), Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, D.C. 20460, telephone 703–557–8927.

Dated: May 30, 1979.

Douglas M. Costle,

Administrator.

Summary of Technical Information

Background—EPA provides technical assistance to the States under authority delegated to the Agency by Reorganization Plan No. 3 of 1970 to administer portions of the Public Health Service Act, as amended (42 U.S.C. 243). Under this authority, EPA initiated a study in June 1975 to determine the radiological impact of living and working in structures constructed on reclaimed phosphate mine lands in central Florida. Early data acquired by this study (see EPA Technical Note ORP/CSD 75–4, September 1975) showed elevated indoor radiation levels in some structures built on reclaimed lands compared to structures built on unmined soil. As a result of these preliminary findings, the Administrator of the Agency informed the Governor of Florida in September 1975 that a potential public health problem may exist in Florida due to elevated indoor air concentrations of radon decay products in some structures. The primary public health concern is increased risk of lung cancer. The Administrator recommended "as a prudent interim measure that the start of construction of new buildings on land reclaimed from phosphate mining areas be discouraged." To provide further guidance on this problem, on June 24, 1976, the Agency published in the **Federal Register** (41 FR 26066) interim recommendations for radiation levels at new structure sites on Florida phosphate lands. These interim recommendations provide for maintenance of public health protection while still allowing construction on those land areas posing only a minimal risk of significant radiation exposure.

At present, there are no Federal radiation protection guidelines for the general public specific to radium–226 in soil or to air concentrations of radon decay products. Recommendations of the former Federal Radiation Council (FRC) published in 1960 established annual whole body dose limits of 500 millirems to an individual in the general population and 170 millirems average exposure to members of representative critical subgroups of this population. These guides are not particularly useful in considering radiation protection recommendations for radon decay products because: (a) they do not apply specifically to radiation exposure from natural sources, and (b) the relationship between radon decay product air concentrations and dose equivalent to the lung is not well established.

Some guidance is provided by the U.S. Surgeon General's guidelines for remedial action in structures having uranium mill tailings under or around them. These guidelines were developed in 1970 in light of the FRC guides and risk information derived from studies of uranium miners, and cover exposure to both external gamma and indoor radon

decay products. However, in order to reflect information on the potential lung cancer risk from exposure to radon decay products developed since 1970 and to consider the specific conditions existing in Central Florida, the Agency has chosen to readdress this problem.

Rationale for the guidance—Radiation in structures built on phosphate lands consists of two components: (1) exposure of the lung to alpha radiation due to the inhalation of short-lived radon decay products, and (2) external gamma radiation exposure to the whole body. Exposure of an individual to short-lived radon decay products is measured in Cumulative Working Level Months (CWLM) which were then converted to estimates of potential health risk. Exposure to one working level in a residential environment, 75% of the time during one year, is equal to about 20 CWLM. This conversion includes a correction which considers the higher breathing rate of underground miners engaged in a higher level of physical activity than the general population. Gamma radiation exposure is measured in units of Roentgens, which when it results in a radiation dose to humans is expressed in units of dose equivalent, rems for individuals and person-rems for populations. Thse dose equivalent values were then converted to estimates of potential health risk.

For the purpose of developing radiation protection recommendations for airborne radon decay products, it is prudent to use health risk estimates derived from epidemiological studies of groups previously exposed to elevated air concentrations of these radionuclides. These data are derived primarily from studies of underground miners and lead to uncertain risk estimates when extrapolated to the general population. Nevertheless, they are judged to be sufficiently valid to be useful for making estimates for public health protection. Similarly derived estimates for the health risks associated with gamma radiation doses are available for a variety of exposed populations.

A linear, nonthreshold dose-effect relationship has been assumed to be a reasonable model for deriving risk estimates to the general public from these data, in the absence of definitive contrary information. This assumption implies that there is some finite risk to humans no matter how small the amount of absorbed radiation and that the risk at any given low dose level is directly proportional to the damage demonstrated at higher doses. In judging the acceptability of such risks, it must be considered that all persons are exposed to a large number of competing risks, including other radiation risks, and any reduction of risk from a single source must be viewed in the overall perspective of the social and economic impacts involved. Therefore, in developing these recommendations, the Agency carefully considered, in addition to the available information on health risk, the effectiveness and cost of various methods for reducing radiation exposures, and the practicality of implementation.

Scope of the guidance—These recommendations are intended to provide health protection for persons exposed to radiation in residences constructed on phosphate lands in Florida. Phosphate lands include unmined areas containing phosphate deposits, reclaimed mined areas, and any other areas containing significant quantities of residues from phosphate mining activities. The recommendations provide guidance to Federal, State, and local authorities and the public regarding unacceptable radiation exposure and for determining when remedial action is warranted in existing and new structures constructed on these lands. They contain maximum and design objective radiation exposure levels applicable to the general population from this radiation source for both exposure of the lung to alpha radiation due to the inhalation of short-lived radon decay products, and external gamma radiation exposure to the whole body. The recommended levels are expressed in terms of short-lived radon decay product air concentrations measured in Working Levels (WL) and gamma exposure rate measured in micro-Roentgens per hour (μR/h).

Guidance will be proposed at a later time to aid in evaluation of undeveloped phosphate lands. This guidance will be directed to methods for estimating post-construction levels in structures to be built on these lands. However, until this guidance is available, the interim recommendations published in the **Federal Register** in June 1976 (41 FR 26066) are still appropriate for the evaluation of proposed building sites.

The recommendations are not intended to supersede any existing Federal Radiation protection guides, but rather supplement these by specifying guidelines for this particular exposure situation. In developing the present recommendations only exposure due to radiation in structures was considered, since at present this appears to be the primary public health hazard. Potential crop uptake, soil runoff, and other pathways may be addressed at some future time if evaluations show these pathways to be important also.

Risk perspectives—The primary risk due to inhalation of short-lived radon decay products is lung cancer. Risks due to exposure to gamma rays are various types of fatal and nonfatal cancers and genetic damage. Health risk estimates were based upon the Agency's review of epidemiological studies conducted in several countries, including the U.S., of persons exposed to radon decay products and on findings of the Advisory Committee on the Biological Effects of Ionizing Radiations of the National Academy of Sciences (NAS–BEIR Committee) in their reports entitled "The Effects on Populations of Exposure to Low Levels of Ionizing Radiation" (1972) and "Health Effects of Alpha Emitting Particles in the Respiratory Tract" (1976). Information in the report of the United Nations Scientific Committee on the Effects of Atomic Radiation entitled "Sources and Effects of Ionizing Radiation" (1977) was also considered.

Two types of models can be used to estimate the health risk due to exposure to radon decay products. One, commonly called the relative risk model, yields the percent increase in the normal incidence of cancer per unit exposure. The other, called the absolute risk model, yields the absolute numerical increase in cancers per unit of exposure. In the relative risk model it is assumed that risk is proportional to the age-dependent natural incidence of the disease, whereas in the absolute risk model it is assumed that the risk is independent of natural incidence. Using the relative risk model, a 3% increase in average lifetime lung cancer risk per working level month of cumulative radiation exposure was estimated as the most probable value. However, because of uncertainties in the data it is estimated that the actual increase may fall anywhere between 1–5% per working level month. Using the mean of these values for lifetime exposure to 0.02 WL (75% of the time) it is estimated that in a hypothetical population of 100,000 persons followed through their entire lifetimes there could be 2000 excess lung cancer deaths. This estimate is increased by 50% if it is assumed that children are three times more sensitive to radon decay product exposures than adults. It is decreased by about 50% if the absolute risk model is used. For either risk model, the number of years of life lost in a population of 100,000 exposed to 0.02 WL under the conditions described above is about the same—30,000 years; that is, life expectancy in the population is reduced by 0.3 years.

The risk for populations at different exposure levels or for difference occupancy periods can be estimated by proportional extrapolation. However, regardless of the models used or the assumptions made it must be recognized that, in addition to uncertainties of about a factor of two in the basic health effects data for uranium miners, there are also unquantified uncertainties in extending these results to members of the general population. These arise from significant physical, environmental, and demographic differences between the two cases. These include contributions to lung cancer induction by dusts and gases in mining environments. In addition, variations in breathing rates and equilibrium ratios of the radon daughters, and differences in population distributions due to age, sex, and personal habits, such as smoking, also affect the validity of extrapolating miner exposure data to the general population.

Gamma exposure of 0.1 rem per year over a lifetime is estimated to result in an increased fatal cancer risk of about 300 per 100,000 persons exposed, on the basis of the relative risk model.

Control costs and effectiveness—The Agency also considered the control costs which would result from implementation of these recommendations. Based upon a report published by the Agency entitled "A Preliminary Evaluation of the Control of Indoor Radon Daughter Levels in New Structures" (1976) and other available information, it is estimated that it could cost between $900 and $2600 to achieve the recommended indoor radiation levels in the majority of new or existing residences in Florida which require control action. The estimated range of costs results from the variations in construction and location of the residence and the range of potential control methods. Application of suitable control measures is estimated to result on the average in an 80% reduction in the average indoor radon decay product level and in similar reduction of indoor gamma exposure rates. On the basis of this projected control efficiency and the Agency's survey data, however, a small fraction of existing structures requiring remedial action may require special control measures resulting in costs ranging from $10,000 to $25,000 per structure.

Selection of recommendations—In developing these recommendations, the Agency attempted to meet the following objectives:

1. Minimize the health risk to the affected population.

2. Determine that recommended radiation levels can be measured with reasonable accuracy, and, when necessary, differentiated from normal background.

3. Determine that suitable control measures exist to reduce indoor radiation levels to the recommended levels.

4. Determine that application of control measures does not require the expenditure of unreasonable resources by individuals, government authorities, or other groups.

5. Determine that the recommendations can be understood and practically implemented by State and local responsible authorities and by the general public.

Present (1975) lifetime risk of lung cancer in the United States is about 3000 cancers per 100,000 persons, i.e., there is about a 3% chance that an individual will die of lung cancer during his or her lifetime (it is slightly higher in Florida). As previously noted, lifetime residency (75% occupancy) in a residence with an air concentration of 0.02 WL could result in an excess lung cancer risk of about 2000 per 100,000 exposed persons. This would increase the normal incidence by 70%.

Review of the control measures available and cost information indicates that it is feasible and, in view of the health protection gained, reasonable to reduce indoor air concentrations of radon decay product levels equal to or greater than 0.02 WL. Achievement of an 80% reduction in all cases falling above this level would result in elimination of approximately 60% of the total estimated excess risk of lung cancer projected, on the basis of EPA's limited survey of structures on these lands. The Agency recognizes that in a very few exceptional cases, costs as high as $10,000 to $25,000 per structure may be required. These will necessitate special consideration in the implementation of a remedial program, although it should be noted that the existence of such exceptional cases (a projected 1–2%) is based on a conservative projection of control efficiency, both in primary and secondary application of remedial measures. Because there are no technical difficulties in measuring radon decay product concentrations at 0.02 WL, and no other significant practical limitations, government authorities should be able to devise reasonable procedures to implement control in cases where such a level is exceeded. Further, in almost all cases, occupants of affected structures should be able to achieve these levels by selecting reasonable control measures.

The Agency also examined the reasonableness of recommending that levels lower than 0.02 WL should always be achieved. Required achievement of a significantly lower level would be likely to impose unreasonable costs in up to 15% of cases examined in the EPA survey. Nevertheless, at these levels radiation exposure should also be kept as low as reasonably achievable through the use of remedial measures. In situations observed in Florida it is usually practical to reduce exposure whenever indoor radon decay product levels are significantly above background levels. In most cases it is not unreasonable to achieve indoor radon decay product levels of less than 0.005 WL above normal indoor radon decay product background (approximately 0.004 WL in central Florida). If an 80% reduction were achieved for all cases where the initial level is greater than 0.005 WL above normal background levels, the total estimated excess risk of lung cancer for lifetime residence, projected as above, would be reduced by approximately 75%, based on the EPA/DHRS survey. The remaining excess risk is roughly equal to that attributable to normal indoor background. In order to provide flexibility to bring about remediation when costs are reasonable, remediation is recommended whenever responsible authorities determine that it is practicable to do so in the range between 0.02 WL (including normal indoor background) and 0.005 WL above normal indoor background. Although from a public health standpoint it would be desirable to reduce levels even further, the Agency has concluded that such reduction is impracticable in many situations. At indoor radon decay product levels less than 0.005 WL above normal, it becomes increasingly difficult to accurately measure and differentiate observed levels from normal background. Further, sources of radon other than those subject to these controls may contribute to the observed indoor radon decay product air concentrations. Such sources could include emanations from construction materials or infiltration from ambient air. These factors both decrease the effectiveness of control measures and increase the difficulty of implementation.

Reduction of exposure is more practical in new than in existing structures. This is because structure design, site preparation, selection of construction materials, and the location can be planned. All of these factors should be carefully considered when building new structures, particularly residences, and the builder should normally assume the responsibility of

assuring that finished structures satisfy these recommendations. State and/or local measurement programs adequate to assure that this is achieved will be required. It is possible that in a few cases following construction using what were anticipated to be appropriate control measures, the indoor radon decay product level will be above normal. In may of these cases additional controls may be warranted, but in others the lowest practical level may already be achieved. Such a determination will require a careful case-by-case review and may involve measurements over an extended period of time. Responsible State and/or local officials should therefore require bonding or comparable assurance of remediation.

The highest indoor gamma radiation dose observed in the examination of 1102 residential structures in Florida was 190 mrem/yr (29 μrem/hr, assuming 75% occupancy), which is below existing FRC guides for whole body exposure of an individual in the general public. It is not expected that a significant number of structures with indoor radiation levels much above or equal to this value will be identified. From an examination of the control cost to reduce this exposure level, it appears unreasonable to attempt reduction of such gamma levels in existing structures. However, as is the case for radon, the availability and cost of control measures for gamma radiation exposure in new residences is such that in most situations anticipated in Florida on phosphate lands it is reasonable to design and site a new residence so that the indoor gamma radiation exposure rate in the completed structure is less than 5 μR/h above normal gamma radiation background (normal is approximately 6 μR/hr). Lifetime exposure at this rate (43 mrem/y) is estimated to result in about 130 additional cancer fatalities per 100,000 persons exposed. Designing structures to achieve an indoor gamma exposure rate less than about 10 μR/hr (gross) is impractical, since differentiating between normal background and elevated levels becomes increasingly difficult below 10 μR/hr. Also, as in the case for radon daughters, other sources of radioactivity such as construction materials may be significant contributors to the overall gamma exposure at these levels. Because of high retrofitting cost, once a structure is built using a design and siting plan to minimize indoor gamma radiation exposure, no additional control is warranted for gamma reduction even if the recommended gamma ray exposure guide is exceeded.

Implementation—The U.S. Environmental Protection Agency has no authority to assure compliance with these recommendations. Implementation should be through their voluntary adoption by Federal, State, and local authorities in the form of zoning requirements, building codes, standards, or other suitable mechanisms. The recommendations may also be voluntarily implemented by property owners and occupants.

In implementing these recommendations in existing structures it will be necessary to measure indoor radon decay product air concentrations. For the recommendations applicable to new structures, gamma measurements will be needed and it will be necessary to convert the design radiation levels to measurements that can be made prior to development. Guidance on pre-construction land evaluation is currently being developed by the Agency, and is presently scheduled to be proposed in 1979.

Indoor air concentrations of radon decay products should be measured using a Radon Progeny Integrating Sampling Unit (RPISU) or other systems capable of comparable accuracy in estimating representative average concentrations. From the Agency's field studies Florida, we have found that if the RPISU or a similar system is used, the average indoor radon decay product level for a structure can be estimated by using the mean of at least four to six measurements made over a one-year period. Single measurements of less than 24 hours integrating time or multiple measurements totaling less than 125 hours have limited value in determining the average indoor radon decay product level. Devices such as instantaneous working level meters, grab radon or radon decay product samples, and track-etch films may be helpful in screening structures to determine those most likely to exhibit elevated indoor radon decay product air concentrations. However, they may not provide sufficiently accurate or representative average exposure data to be used for remedial action decisionmaking, unless the data are shown to be of quality comparable to that determined from devices such as the RPISU. The radiation detection instruments should be located in a part of the structure which would reasonably represent normal living conditions. Closets or other marginally ventilated areas are, in general, not good locations.

The recommendations provide that when the radon daughter product level in existing homes is less than 0.02 WL (including normal background indoors), action be taken to reduce the radon concentration to as low as reasonably achievable levels. It is recognized that a discretionary policy such as this may complicate implementation of the recommendations, since decisions must be made regarding which exposure level can be considered as low as reasonably achievable for each structure. To assist in making such decisions several factors should be considered:

1. The magnitude of the annual average indoor radon decay product level should be compared to the recommendations. The closer an observed level approaches background levels, the less reasonable is an effort to reduce it.

2. The reliability of the data should be evaluated. How much error is in the measurement? Is more accurate data required to make a decision? At levels near 0.005 WL above normal indoor background a generic decision on remediation for similar cases may be appropriate to minimize unproductive costs for refining of measurements.

3. The cost to reduce the level should be evaluated. If the cost is minimal then any reduction the level would be desirable. However, if the cost is substantial then the potential decrese in risk must be weighed against the cost to determine if the application of the control is warranted.

4. Any potential impact of the residence on future inhabitants should be considered. If the structure is very old and in poor condition and is unlikely to be inhabited to any significant degree in the future, it can be expected to have less long-term impact on public health.

5. The social and economic inconvenience to the inhabitants should be considered. Some residents may find expenditures to install control technology prohibitive and a major disruption to their life styles.

These factors have not been placed in order of importance because they will vary from case to case and may not even represent all factors to be considered. Thus, the decision on appropriate remedial action below 0.02 WL in existing homes is in reality a judgment of what appears most reasonable for the present and future occupants.

Projected impact of the recommendations—Implementation of the recommendations will have a broad range of health, economic, sociological, and other impacts on the areas affected. These impacts can be evaluated only on a qualitative basis at present because the actual number of structures involved, the field effectiveness of control measures and their specific

costs, and the availability of financial aid for remedial action are among several factors not totally known.

About 150,000 acres of land have been mined for phosphate rock. Of that amount, about 50,000 acres have been reclaimed to various degrees. About 5,000 acres are newly mined each year. Estimates suggest that approximately 7,500 acres are now being used for residential housing or commercial purposes. The total unmined acreage which contains elevated radium-226 concentrations near the surface is at present unknown, but preliminary investigation indicates it may be quite large.

The Florida Department of Health and Rehabilitative Services has estimated that 4,000 structures have been built on phosphate lands in Polk and Hillsborough Counties.

The recommendations could negatively affect property values and availability of housing due to the reluctance of builders to utilize phosphate lands, and perhaps a reluctance to purchase houses that have had remedial action for radiation level reduction. The actual magnitude of this impact is dependent upon the availability of alternative construction sites, the willingness of builders to incorporate remedial measures in housing design, and the attitude of residential buyers toward impacted residences and land.

The additional workload on local government agencies to implement the proposed recommendations could be significant, at least initially. There will be a need for additional inspections, surveying and recordkeeping, and other peripheral support activities including an available laboratory for radiological analyses. It is estimated to cost about $50–100 to conduct a detailed evaluation of the radiation levels in each structure. Rapid screening of structures to isolate the most affected structures should be considerably less expensive. If 4,000 structures require detailed evaluation, this is estimated to cost $200,000–400,000. These values could vary depending upon the present capabilities of the local agencies.

There may be a negative impact on community tax structures due to the recommendations. First, there may be a loss of tax base due to a decrease in residential or commercial development. Second, an increased local revenue may be needed to support any remedial action program operated by local government.

There will also be impacts on residents of affected structures and those planning future housing purchases. Depending upon the type of control technology used, residents may have some degree of disruption of their life styles either through the initial installation of the remedial measure or any periodic maintenance required over the ensuing years. The cost of the remedial action may also have to be assumed fully, or in part, by the homeowner.

From the air sampling data collected, the total cost for implementating the recommendations for 4,000 existing structures can be projected. With 0.02 WL (including background) as the minimum control level, approximately 20 percent of the total sample, or 800 structures out of the estimated 4,000 structures, is projected to require remedial action. In addition, up to ½ percent of structures may require special corrective action to meet this control level at a total cost of $200,000–$500,000. At a maximum control level of 0.005 WL above indoor background, approximately 40 percent of existing structures, or a total of 1,600 structures, would require remedial action. Assuming an average remedial cost per structure of approximately $1,500 for normal remediation, a total cost range of $200,000–$2,900,000 is projected for the limiting criteria levels.

Statistics are not readily available on the number of new structures being built on or projected for phosphate lands. However, a rough estimate can be made on the basis of annual housing starts for those cities and towns located in the vicinity of identified phosphate areas. Data published by the Bureau of the Census indicates approximately 400 housing starts within incorporated municipalities located in phosphate areas of Polk and Hillsborough Counties for 1976. There were 3,012 housing starts in unincorporated areas of both counties in 1976. Approximately 50 in Hillsborough County and 950 in Polk County are assumed to be located in the defined phosphate area based on information from the respective county building permit offices. Of the 1,400 total new housing starts, as many as 40 percent might require some control measures to meet the recommended design objectives for radon decay products, based on the measured distribution of levels in existing structures. Therefore, about 500 structures per year or about 15 percent of new residential construction starts in the two counties may require precautionary radon control action. Over a ten-year period the cost of control could be about $2,500,000, assuming $500 per structure. About 250 structures per year could require some control measures to meet the gamma exposure design objectives. Over a ten-year period the cost of precautionary gamma exposure control could be about $1,400,000 in the two counties. In some structures, control of radon decay product levels could also control gamma exposures and thus reduce the overall potential control costs. Other counties may be affected depending upon the extent of phosphate lands and future decisions regarding their use.

The economic impact of a remedial and precautionary action program in Polk and Hillsborough Counties for a ten-year period could total about 4.5 to 5.5 million dollars (undiscounted 1977 dollars) for existing and new structures. Because of the relatively low cost of control measures, compared to overall structure costs, implementation of the recommendations should not seriously affect long-term development of housing in the Central Florida area.

[FR Doc. 79-20292 Filed 6-29-79; 8:45 am]
BILLING CODE 6560-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Equal Pay Act Administration

Pursuant to Reorganization Plan No. 1 of 1978, 43 FR 19807 (May 9, 1978), responsibility and authority for enforcement of the Equal Pay Act of 1963, 29 U.S.C. § 206(d), is transferred from the Department of Labor to the Equal Employment Opportunity Commission effective July 1, 1979. The Commission has voted to adopt certain procedures regarding administration of the Equal Pay Act. These procedures are effective July 1, 1979, and are as follows:

(a) The Commission has adopted the Department of Labor's procedures for administrative investigation and enforcement under the Equal Pay Act.

(b) As provided in sections 9, 11, 16, and 17 of the FLSA, the Commission and its authorized representatives under the Act may (1) investigate and gather data; (2) enter and inspect establishments and records, and make transcriptions thereof, and interview individuals; (3) advise employers regarding any changes necessary or desirable to comply with the Act; (4) subpoena witnesses and order production of documents and other evidence; (5) supervise the payment of amounts owing pursuant to section 16(c) of the FLSA; (6) initiate and conduct litigation.

(c) The General Counsel, District Directors, the Director of Field Services, and the Director of Systemic Programs, or the designees of any of them are hereby delegated authority to exercise

the powers enumerated in paragraphs (b)(1), (2), (3), and (5) above and to serve subpoenas. The General Counsel is hereby delegated authority to initiate litigation at the direction of the Commission and to conduct such litigation. With respect to the enforcement of the Equal Pay Act, any member of the Commission may sign a subpoena.

(d) Employers having employees subject to the Act are required to keep records in accordance with U.S. Department of Labor regulations found at 29 C.F.R. Part 516 (Records to Be Kept by Employers Under the FLSA). The regulations of that Part are adopted herein by reference.

(e) Whenever the Commission receives a charge or obtains information relating to possible violations of one of the statutes which it administers and the charge or information reveals possible violations of one or more of the other statutes which it administers, the commission will deem such charges or information as being filed in accordance with all such relevant statutes and process them accordingly.

(f) Complaints and information relating to possible violations of the Equal Pay Act may be received at any of the offices of the Commission in Washington, D.C., or any of its district or area offices, or by any of its designated representatives. The offices of the Wage and Hour Division of the Department of Labor are designated to receive complaints under the Equal Pay Act.

(g) The identity of persons giving information as to violations of the Act shall not be disclosed unless necessary in a court proceeding.

Signed at Washington, D.C. this 27th day of June 1979.

For the Commission.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

[FR Doc. 79-20335 Filed 6-29-79; 8:45 am]

BILLING CODE 6570-06-M

The Equal Pay Act; Interpretations and Opinions

Pursuant to Reorganization Plan No. 1 of 1978, 43 FR 19807 (May 9, 1978), responsibility and authority for enforcement of the Equal Pay Act of 1963, 29 U.S.C. § 206(d), is transferred from the Department of Labor to the Equal Employment Opportunity Commission effective July 1, 1979.

In preparation for the assumption of this new jurisdiction and pursuant to its responsibility under Executive Order 12067 (43 FR 28967) which requires the EEOC to exercise leadership in development and implementation of a harmonious body of law concerning employment discrimination, the Commission has been engaged in plans for the administrative processing of Equal Pay cases through its district offices, and has also been studying the question of the proper interpretation of the Equal Pay Act (29 U.S.C. § 206(d)), and its relation to Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e *et seq.*). As part of this study, the Commission has commissioned the National Academy of Sciences to investigate certain aspects of the job evaluation process, and is exploring the issue in a number of other ways.

The preliminary reports from the National Academy of Science, and other studies, indicate that the task of articulating a set of appropriate standards to address problems of wage rate discrimination under both statutes is difficult and complex, and cannot be completed by July 1, 1979, with the full opportunity for public participation in the decisional process and in accordance with Executive Order 12044 (43 FR 12661).

The Commission is aware that employers and others may rely on interpretations which it will issue under the Equal Pay Act and, therefore, wishes to issue only such interpretations as represent its final considered judgment, rendered after full study with appropriate public participation. As an interim measure the Commission does not adopt as its interpretation of the Equal Pay Act the interpretations and opinions of the Wage Hour Administrator. The Commission has undertaken a complete review of the interpretation and opinions issued by the Wage and Hour Administrator interpreting the Equal Pay Act. After July 1, 1979, employers may, until the Commission issues its own interpretations of the Equal Pay Act, continue to rely on existing interpretations and opinions of the Wage and Hour Administrator to the extent that they are not inconsistent with statutory revisions and judicial interpretations.

The Commission will also issue its interpretation of the relationship between Title VII of the Civil Rights Act of 1964, as amended, and the Equal Pay Act so as to harmonize the two statutes.

Signed at Washington, D.C., this 27th day of June 1979.

For the Commission.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

[FR Doc. 79-20332 Filed 6-27-79; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL MARITIME COMMISSION

Port Authority of New York and New Jersey; Notice of 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, N.W., Room 10423; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. 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 July 23, 1979 in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity 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-3775-1.

Filing Party: John C. Barnett, Assistant Chief, Leases & Operating Agreements Division, The Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.

Summary: Agreement No. T-3775-1, between the Port Authority of New York and New Jersey (Port) and Farrell Lines, Inc. (Farrell), modifies the parties' basic agreement which provides for the month-to-month lease to Pier 11 at the Brookklyn-Port Authority Marine Terminal for use by Farrell as a public marine terminal facility. The purpose of this amendment is to clarify the

expiration date of the lease and the termination rights of the parties.

Agreement No.: T-3818.

Filing Party: David Ainsworth, Senior Counsel, American President Lines, Ltd., 1950 Franklin Street, Oakland, California 94612.

Summary: Agreement No. T-3818 between the Dutch Harbor Development Corporation (Corporation) and American President Lines, Ltd. (APL) provides for the 20-year lease by the Corporation to APL of certain premises on Amaknak Island, Alaska to be used as an ocean terminal and container facility.

Dated: June 27, 1979.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-20377 Filed 6-29-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, 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 interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than July 25, 1979.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

Chase Manhattan Corporation, New York, New York (finance, factoring, and leasing activities; California, Illinois, Massachusetts, Georgia, Texas, Ohio and New Jersey): to engage, through a *de novo* wholly-owned subsidiary, CCC Holding Inc., in the following activities: making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance, equipment finance or factoring company, including factoring accounts receivable, making advances and over advances on receivables and inventory and business installment lending; servicing loans and other extensions of credit; leasing on a full payout basis personal property or acting as agent, broker or adviser in leasing such property, including the leasing of motor vehicles. These activities would be conducted by a wholly-owned subsidiary of CCC Holding Inc., Chase Commercial Corporation, at offices in: Los Angeles, California, serving California, Arizona, Idaho, Nevada, Oregon, and Washington; Schiller Park, Illinois, serving Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, and Wisconsin; Boston and Canton, Massachusetts, serving Massachusetts, Connecticut, Maine, New Hampshire, Rhode Island, and Vermont; Atlanta, Georgia, serving Georgia, Alabama, Florida, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia; Dallas and Houston, Texas, serving Texas, Arkansas, Colorado, Kansas, Louisiana, New Mexico, and Oklahoma; Cleveland, Ohio, serving Ohio, Indiana, Kentucky, Maryland, Michigan, Pennsylvania, and West Virginia; and Newark, New Jersey, serving New Jersey, Delaware, Maryland, Pennsylvania, and the District of Columbia.

B. *Federal Reserve Bank of Philadelphia*, 100 North 6th Street, Philadelphia, Pennsylvania 19105:

New Jersey National Corporation, Trenton, New Jersey (mortgage banking activities; Pennsylvania, New Jersey, Maryland, Delaware and New York (lending) and nationwide (servicing)): to continue to engage, through its subsidiary, Underwood Mortgage & Title Company, Lawrenceville, New Jersey, in the activities of making, acquiring, selling and servicing, for its own account or the account of others, loans and other extensions of credit secured by mortgages. The activities are to be conducted for existing and prospective clients throughout the States of Pennsylvania, New Jersey, Maryland, Delaware and New York (lending) and nationwide (servicing) from a new office to be located in Yardley, Pennsylvania.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, June 22, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-20297 Filed 6-29-79; 8:45 am]

BILLING CODE 6210-01-M

Southwest Florida Banks, Inc.; Acquisition of Bank

Southwest Florida Banks, Inc., Fort Meyers, Florida, has applied for the Board's approval under section 3 (a)(3) of the Bank Holding Company Act (12 U.S.C. section 1842 (a)(3)) to acquire 80 per cent or more of the voting shares of the Palmetto Bank and Trust Company, Manatee County, Florida. The factors that are considered in acting on the application are set forth in section 3 (c) of the Act (12 U.S.C. section 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. 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 July 23, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 22, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-20299 filed 6-29-79; 8:45 am]

BILLING CODE 6210-01-M

Jackson Hole Banking Corp.; Formation of Bank Holding Company

Jackson Hole Banking Corporation, Jackson, Wyoming, 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 at least 80 percent of the common and of the preferred shares of The Jackson State Bank, Jackson, Wyoming. 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 July 20, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, June 21, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-20298 Filed 6-29-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

National Advisory Council on Women's Educational Programs; Meeting

AGENCY: Office of Education, National Advisory Council on Women's Educational Programs.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the WEEA Program Committee of the National Advisory Council on Women's Educational Programs. Notice of the meeting is required pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). This document is intended to notify the general public of their opportunity to attend.

DATE: July 30, 1979, 8:30 a.m. to 5:00 p.m.

ADDRESS: Holiday Inn, 8120 Wisconsin Ave., Bethesda, Md. 20014.

FOR FURTHER INFORMATION CONTACT: Laura R. Summers, National Advisory Council on Women's Educational Programs, 1832 M Street, N.W., No. 821, Washington, D.C. 20036 (202) 653-5846.

The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 95-561. The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the administration of Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary for Education concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant of Pub. L. 95-561, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; (d) make such reports to the President and the Congress on the activities of the Council as it determines appropriate; (e) develop criteria for the establishment of program priorities; and (f) disseminate information concerning its activities under Pub. L. 95-561.

The agenda for the WEEA Program Committee will include reviewing the draft of the FY 78 WEEA evaluation report and meeting with WEEP grantees. Records will be kept of the proceedings and will be available for public inspection at the Council offices at 1832 M Street, NW., Suite 821, Washington, D.C.

Signed at Washington, D.C. on June 25, 1979.

Joy R. Simonson,

Executive Director,

[FR Doc. 79-20345 Filed 6-29-79; 8:45 am]

BILLING CODE 4110-02-M

Health Services Administration

Assistance Under the Social Security Act; Maternal and Child Health and Crippled Children's Services Project Grants to Institutions of Higher Learning; Announcement of Availability of Grants

The Bureau of Community Health Services Health Services Administration, announces that competitive applications are now being accepted for grants in fiscal year 1979 for nonrecurring, short-term projects for workshops, conferences of institutes relating to Maternal and Child Health and Crippled Children's (MCH-CC) Services. The amount available for new MCH-CC grants under this announcement is approximately $300,000.

The Secretary of Health, Education, and Welfare, under the authority of sections 503(2), 504(2), and 511 of the Social Security Act (42 U.S.C. 703(2), 704(2), and 711), will make grants for MCH-CC projects to institutions of higher learning as defined in the applicable regulation. See Subpart D of 42 CFR Part 51a.

Grants to eligible applicants may be made by the Secretary for projects which will, in his judgment, best promote the purposes of sections 503(2), 504(2), and 511 of the Act. Factors which will be considered by the Secretary are set forth in the program regulation at 42 CFR 51a.406(a) and (b).

The Secretary will also consider the degree to which the project meets the requirements set forth in the applicable regulation at 42 CFR 51a.405.

Application kits, instructions, and information regarding the specific priority areas for funding are available to applicants from:

Research and Training Services Branch, Bureau of Community Health Services, Health Services Administration, Parklawn Building, Room 7-15, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-2340.

Consultation and technical assistance relative to the development of an application are also available from the above-named office upon request.

Completed applications must be received at the address below by August 10, 1979, and will be subject to competitive, objective review:

Grants Management Branch, Bureau of Community Health Services, Health Services Administration, Parklawn Building, Room 6-49, 5600 Fishers Lane, Rockville, Maryland 20857.

It is anticipated that 20 grants will be awarded.

Dated: June 29, 1979.

George I. Lythcott,

Administrator, Health Services Administration.

[FR Doc. 79-20356 Filed 6-29-79; 8:45 am]

BILLING CODE 4110-84-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N79-934]

Privacy Act of 1974; Correction of New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Correction of notification of new system of records.

SUMMARY: On March 27, 1978 at 43 FR 12761, the Department published an interim notice of a new system of records subject to the Privacy Act. The new system is identified as the National Flood Insurance Application and Related Documents Files (HUD/FIA-2). The routine uses described therein are corrected by the addition of the

American Red Cross, and the Federal Disaster Assistance Administration. The correct system description is published in its entirety below.

EFFECTIVE DATE: This system of records shall become final without further notice on July 30, 1979, unless comments are received on or before July 30, 1979, which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Rosenthal, Departmental, Privacy Act Officer, telephone 202–755–5192.

SUPPLEMENTARY INFORMATION: The system of records results from processing applications, endorsements and claims under the National Flood Insurance Program.

A new system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on November 4, 1977.

The prefatory statement containing General Routine Uses applicable to all of the Department's systems of records was published at 43 FR 55102 (November 1, 1978). Appendix A which lists the addresses of HUD's field offices was published at 43 FR 55102 (November 1, 1978).

HUD/FIA–2

SYSTEM NAME:

The National Flood Insurance Application and Related Documents Files.

SYSTEM LOCATION:

Various offices of the Servicing Agent under contract to the Department.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for individual's flood insurance and individuals insured.

CATEGORIES OF RECORDS IN THE SYSTEM:

Flood insurance, policy issuance and administration records and claims adjustment records, including applications for emergency and regular flood insurance, Endorsements, Renewal applications, Cancellation Notices, Policy Questionnaires, Notice of Loss, and Proofs of Loss.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See Routine Uses in prefatory statement. Other routine uses: For use of insurance agents, brokers and adjusters, and lending institutions for carrying out the purposes of the National Flood Insurance Program; and to Small Business Administration, American Red Cross, and Federal Disaster Assistance Administration, for verification of nonduplication of benefits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In the file folders and on magnetic tape/disc/drum.

RETRIEVABILITY:

Name, policy number.

SAFEGUARDS:

Records kept in a secured area; automated systems have restricted access limited to authorized personnel.

RETENTION AND DISPOSAL:

Policy records are kept as long as insurance is desired and premiums paid and for an appropriate time thereafter and claim records are kept for the statutory time within which to file a claim.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Headquarters location. This location is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individuals concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Individuals who apply for flood insurance under the National Flood Insurance Program and individuals who are insured under the program.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., June 26, 1979.

William A. Medina,

Assistant Secretary for Administration.

[FR Doc. 79–20385 Filed 6–29–79; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–79–935]

Privacy Act of 1974; Proposed New System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed new system of records.

SUMMARY: The Department is giving notice of a new system of records it intends to maintain that is subject to the provisions of the Privacy Act of 1974.

EFFECTIVE DATE: The system of records shall become effective without further notice on August 1, 1979, unless comments are received on or before July 30, 1979, which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Mr. Harold Rosenthal, Departmental Privacy Act Officer, telephone 202–755–5192. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The new system identified as Employee Emergency Reference File will consist of manual records on HUD employees containing personal and medical references to be contacted in case of an emergency affecting the subject of the records. A new system report was filed with the Speaker of the House, the President of the Senate and the Office of Management and Budget on April 17, 1979. Appendix A, which lists the addresses of HUD's field offices, was published at 43 FR 55121 (November 24, 1978).

HUD/DEPT-60

SYSTEM NAME:

Employee Emergency Reference File.

SYSTEM LOCATION:

Headquarters and field offices. For a complete listing of these offices, with addresses, see Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

HUD employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, home phone number, social security account number, and personal and medical references to be used in an emergency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To personal and medical sources identified by subject—for providing HUD with assistance in the event of an emergency affecting the subject

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and card boxes.

RETRIEVABILITY:

Subject's name.

SAFEGUARDS:

Records are kept in lockable file cabinets with access limited to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained during active status and disposed of within one year of subject's departure from the Department.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

RECORD SOURCE CATEGORIES:

Subject individuals.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., July 26, 1979.

William A. Medina,

Assistant Secretary for Administration.

[FR Doc. 79-20386 Filed 6-29-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

California: Intent To Prepare an Environmental Impact Statement

The Department of the Interior, Bureau of Land Management, Ukiah District Office, will prepare an Environmental Impact Statement on its Timber Management Program for Sustained Yield Unit 13 (SYU 13). This Notice of Intent is issued in accordance with the Council on Environmental Quality Regulations on implementing procedures for the National Environmental Policy Act (40 CFR 1507.7).

This statement will analyze the proposed implementation of a Timber Management Plan (TMP) approximately 58,000 acres of productive forest land within SYU 13. Most of the public lands in SYU 13 lie in a scattered ownership configuration intermixed with privately owned lands in Mendocino, Humboldt and Trinity Counties, California. The proposal excludes the King Range Conservation Area (SYU-8). The purpose of the proposed action is to provide for a level of timber production commensurate with even flow sustained yield resulting in the highest and best combination of uses of land and resources.

Essentially, the proposed action will result in the development of a TMP that will quantify the level of timber harvest and silvicultural and other practices (i.e., harvest cutting, thinning, yarding methods, reforestation, site improvement and road construction and maintenance) needed to sustain the harvest level of SYU 13.

Possible alternatives to the proposed action are:

1. Limited Investment in Timber Production

This alternative would limit timber management practices to those associaed with final timber harvest and artificial reforestation. Under this alternative, practices such as precommercial thinning, commercial thinning and site conversion would not take place.

2. No Action

This alternative would analyze the impacts that would occur as a consequence of foregoing the proposed action and continuing the current level of timber management in SYU 13.

3. Accelerated Harvest of Overmature Timber

This alternative would increase the harvest rate of overmature timber to accelerate the replacement of these decadent stands with vigorous young growth stands. The increased harvest would consist of overmature timber only. However, the rate and level of harvest would be limited to prevent a subsequent drop in production below the long term sustainable level shown in the proposed action. The level and duration of overmature timber harvest would be keyed to the overall timber supply situation relative to all ownerships.

4. Others

Other alternatives may be developed during preparation of the Management Framework Plans and during the scoping process.

Scoping sessions for central issue identification and further alternative development will take place between August 15 and August 31, 1979. These sessions will be conducted with various agencies, organizations and groups on a small group basis.

Two additional scoping sessions will be held in conjunction with Management Framework Plan (MFP) public meetings. The first meeting will be held in September 13, 1979 from 7 p.m. to 9 p.m. at the Humboldt County Courthouse in Eureka, California. The second meeting will be held September 22, 1979 from 10 a.m. to 1 p.m. at the

Financial Savings and Loans Association Building, 700 South State Street, Ukiah, California.

Interested parties may attend any of the meetings or submit written comments to the address below. For information concerning the Environmental Impact Statement, please contact Dean Stepanek, District Manager, Bureau of Land Management, Ukiah District Office, Post Office Box 940, 555 Leslie Street, Ukiah, California 95482.

Telephone (Commercial) Area Code 707–462–3873.

James B. Ruch,

Associate State Director.

[FR Doc. 79-19579 Filed 6-29-79; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Proposed Order Concerning Oil and Gas Operations on the Outer Continental Shelf and Proposed Operating Procedures for the OCS Platform Verification Program

Notice is hereby given that, pursuant to Title 30 CFR Part 250.11, the Chief, Conservation Division, U.S. Geological Survey, has proposed to publish Order No. 8 and Operating Procedures for the OCS Platform Verification Program. These documents will govern oil and gas lease operations on the Outer Continental Shelf for the following OCS Areas:

Gulf of Mexico
Pacific
Gulf of Alaska
Atlantic
Arctic Ocean

These proposed documents were developed from the proposed National OCS Order No. 8 which was published for comment in the **Federal Register** on August 25, 1977, Vol. 42, No. 165. They reflect appropriate suggestions which were received in response to the **Federal Register** August 25, 1977, solicitations for comments and to the notice in the **Federal Register** on June 7, 1977, Vol. 22, No. 117, of the U.S. Geological Survey's intent to develop Platform Structural Verification Standards.

The proposed documents have been prepared to address all OCS Areas. Requirements which are peculiar to a particular OCS Area have been so identified.

A solicitation for comments was published in the **Federal Register** on December 5, 1978, Vol. 43, No. 234, for other draft documents associated with the Platform Verification Program and entitled "Requirements for Verifying the Structural Integrity of OCS Platforms," "Appendices," and the "Commentary." The documents referenced as "Operating Procedures" and "Criteria for Certifying Verification Agents" have been combined as the proposed "Operating Procedures."

Interested parties may submit written comments and suggestions on the proposed documents on or before August 1, 1979.

Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 620, Reston, Virginia 22029.

For further information, contact:

Mr. Richard B. Krahl, Chief, Branch of Marine Oil and Gas Operations, Conservation Division, Mail Stop 620, U.S. Geological Survey, National Center, Reston, Virginia 22092, (703) 860–7531.

The primary author of these documents is:

Mr. Richard J. Giangerelli, Branch of Marine Oil and Gas Operations, Conservaton Division, Mail Stop 620, U.S. Geological Survey, National Center, Reston, Virginia 22092, (703) 860–6822.

Dated: June 26, 1979.

J. R. Balsley,

Acting Director.

OCS Orders

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OCS Order No. 8; Platforms and Structures

Effective

This Order is issued pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.19(a).

1. *Applicability.*

1.1 *New Platforms.* Subsequent to the effective date of this Order, the design fabrication and installation of all new fixed or bottom-founded platforms or other structures (e.g., single-pile caissons, ice islands, and gravel islands) shall be designed, fabricated, and installed in accordance with the applicable provisions of the document, entitled "Requirements for Verifying the Structural Integrity of Outer Continental Shelf (OCS) Platforms," and shall require approval under the provisions of this Order.

Where doubt exists as to the applicability of this Order, questions shall be referred to the Supervisor.

1.2 *Major Modifications and Repairs.* Subsequent to the effective date of this Order, major modifications or repairs of damage to all fixed or bottom-founded platforms or other structures shall require approval under the provisions of this Order. Major modifications or repairs of damage are generally defined as any operation affecting structural members included in the space-frame analysis of the platform design. Where doubt exists as to the applicability of this Order, questions shall be referred to the Supervisor.

1.3 *Platform Verification.*

Pacific, Gulf of Alaska, Arctic, and Atlantic.—All new platforms or other structures, and major modifications or repairs of damage to platforms or other structures, shall be subject to review under the requirements of the Platform Verification Program and to the approval of the Supervisor.

Gulf of Mexico.—All new platforms or other structures, and major modifications or repairs of damage to platforms or other structures which meet any of the following conditions, shall be subject to review under the requirements of the Platform Verification Program and to the approval of the Supervisor for Operations Support:

(a) Installed in water depths exceeding 120 meters (400 feet).

(b) Having natural periods in excess of 3 seconds.

(c) Installed in areas of unstable bottom conditions.

(d) Installed in frontier areas.

(e) Having configurations and designs which are unique in relation to typical Gulf of Mexico installations.

All new platforms or other structures, and major modifications or repairs to platforms or other structures, not subject to the requirements of the Platform Verification Program shall be subject to the review and approval of the Supervisor for Operations Support.

1.4 *References.* Other aspects of the Platform Verification Program are described in more detail in the following documents, and these documents shall be considered as references for this Order.

1.4.1 *Operating Procedures for the Platform Verification Program.* The document, entitled "Operating Procedures for the Platform Verification Program," First Edition, describes the elements of the Platform Verification Program, the verification steps, the function of the Platform Verification Section, and the procedures for resolution of disputes; defines standards which shall be met by individuals or organizations in order to be certified as Certified Verification Agents (CVA); and provides instructions to the CVA.

1.4.2 *Requirements for Verifying the Structural Integrity of OCS Platforms.* The document, entitled "Requirements for Verifying the Structural Integrity of OCS Platforms," First Edition, is identified in this Order as "Requirements." It identifies mandatory state-of-the-art performance standards which shall be met in designing, fabricating, and installing platforms or other structures and major modifications or repairs to platforms or other structures.

1.4.3 *Appendices to Requirements for Verifying the Structural Integrity of OCS Platforms.* The document, entitled "Appendices to Requirements for Verifying the Structural Integrity of OCS Platforms," First Edition, is identified in this Order as "Appendices." It identifies alternative engineering design procedures which may be utilized, where applicable, to conform to the "Requirements."

1.4.4 *Commentary on Requirements for Verifying the Structural Integrity of OCS Platforms.* The document, entitled "Commentary on Requirements for Verifying the Structural Integrity of OCS Platforms," First Edition, is identified in this Order as "Commentary." It provides an explanation of the basic intent of the "Requirements" and also discusses the "Requirements," the "Appendices," and the current relative development of the state of practice for pertinent parts of both.

2. *Responsibility.*

2.1 *Submission.* All applications for approval under the provisions of this Order shall be submitted to the Supervisor. All significant changes or modifications (i.e., any structural change which materially alters the original plan or any major deviation from operations) to approved applications shall be submitted for approval to the Supervisor prior to commencing any such work. Where doubt exists as to whether a change is significant, questions shall be referred to the Supervisor.

2.2 *Certification.* The lessee shall have detailed structural plans and specifications for new platforms or other structures, and major modifications or repairs, certified by a registered professional structural engineer or civil engineer specializing in structural design. The lessee shall also sign and date the following certification:

(Lessee) certifies that the design of the (structure/modification/repair) has been certified by a registered professional structural engineer or a civil engineer specializing in structural design, and the (structure/modification/repair) will be fabricated, installed, and maintained as described in the application and any approved modification thereto. Certified design and as-built plans and specifications are on file at ———————.

2.3 *Verification.* The lessee shall nominate a CVA(s) and have the design, fabrication, and installation of all platforms or other structures, and modifications or repairs to platforms or other structures, which are subject to review under the requirements of the Platform Verification Program, verified by a CVA(s).

2.4 *Notification.* The lessee shall be responsible for notifying the Supervisor at least 1 week prior to transporting the platform or other structure to the installation site.

2.5 *Commencement.* For new platforms or other structures and major modifications or repairs subject to review under the requirements of the Platform Verification Program, the lessee shall obtain approval for the design prior to commencing the fabrication and obtain approval for the fabrication prior to transporting the platform or other structure to the installation site.

3. *Submissions.*

3.1 *General.* The lessee shall submit to the Supervisor, in triplicate, all documentation necessary for approval of new platforms or other structures, and major modifications or repairs, in accordance with the provisions of this Order. Listed hereafter is the documentation which shall be submitted; however, more detailed information and data may be required on a case-by-case basis and upon specific request by the Supervisor.

3.2 *Design.*

3.2.1 *Design Documentation.* The lessee shall submit design documentation subsequent to the approval of the Plan of Development/Production. The design documentation shall include finalized construction (i.e., fabrication and installation) drawings and specifications, the certification by the lessee, and the name of the registered professional engineer. In addition, the design documentation shall incorporate the following:

a. General platform information.
b. Environmental and loading information.
c. Foundation information.
d. Structural information.

3.2.1.1 *General Platform Information.* The general platform information shall include the following:

a. Identification data including the platform or structure designation, the lease number, the area name, the block number, and the lessee's name.

b. Location data consisting of longitude and latitude coordinates, Universal Transverse Mercator grid system coordinates, state plane coordinates in the Lambert or Transverse Mercator Projection system, and a plat drawn to a scale of 1 centimeter = 240 meters (1 inch = 2,000 feet) showing surface location and distance from the nearest block lines.

c. Intended primary use and other intended functions such as planned drilling, production, processing, well protection, compression, pumping or storage facility, or other operations.

d. Personnel facilities, personnel access to living quarters, number and location of boat landings, heliports, cranes, and evacuation routes.

e. Platform or structure details which consist of drawings, plats, front and side elevations of the entire structure, and plan views that clearly illustrate: essential parts (i.e., equipment arrangement, number and location of well slots); design loadings of each deck; water depth; nominal size and thickness of all jacket and deck structural members; nominal size, makeup, thickness, and design penetration of piling, etc.

f. Corrosion protection or durability details which consist of the corrosion-protection method; expected life; and durability criteria for the submerged, splash, and atmospheric zones.

g. Material specifications.

h. Design standards.

3.2.1.2 *Environmental and Loading Information.* The environmental and loading information shall include the following:

a. Environmental data which consists of a summary listing of data, as addressed in the "Requirements," which have a bearing on the design installation and operation (e.g., wave heights and periods, current, wind and gust velocities with relative heights, water depth, storm and astronomical tide data, marine growth, snow and ice effects, and air and sea temperatures).

b. Geophysical data which consists of a summary report of shallow geological and geophysical conditions in the area of the structure; incorporating multisensor, high-resolution profiling information obtained form geophysical instruments (e.g., a sparker and a subbottom profiler); describing any anomalous geological conditions known to exist in the area; and correlating soil borings with the profiling information.

c. Loading data which consists of a listing of total design functional loads and loads due to wind, wave, ice, and current forces for longitudinal, transversal, and diagonal approaches.

3.2.1.3 *Foundation Information.* the foundation information shall include the following:

a. Seabed testing results which consist of a brief summary of the major strata encountered at the location of the boring presented in tabular form, a detailed subsurface profile illustrating results of field and laboratory testing, a listing of field and laboratory investigations and tests with a basic summary of resultant determinations, the identification of properties and conditions of the seabed and the subsoil, and the identification of any manmade hazards or obstructions.

b. Load effects which consist of a description of the effect of the environmental and functional loads on the foundation with a graph, where appropriate, illustrating the ultimate pile capacity in compression and tension versus depth for each pile size.

c. Soil stability analysis including a report of the determination, with supporting information, of the susceptibility of the area to soil movement and, if susceptible to soil movement, an analysis of slope and soil stability.

d. Foundation design criteria which consist of a summary of the design criteria as specified in the "Requirements."

e. Sea floor survey results which consist of a summary of the survey specified in the "Requirements."

3.2.1.4 *Structural Information.* The structural information shall include the following:

a. Design life criteria which consist of the identification of the basis of the design life of the structure.

b. Design loading and criteria which consist of a summary description of the design load conditions and design load combinations taking into consideration the worst environmental and operational conditions expected over the service life of the platform or structure.

c. Material specifications which consist of a listing and description of the appropriate specifications.

d. Strength and serviceability criteria which consist of a summary of the criteria and an analysis of the safety factors and long-term effects.

3.2.2 *Design Verification Plan.* For new platforms or other structures, and for modifications or repairs, which are subject to review under the requirements of the Platform Verification Program, the lessee shall submit a design verfication plan subsequent to the approval of the Plan of Development/Production. The plan shall include a short summary which nominates the CVA, states the qualifications of the CVA, describes how the lessee intends to use the CVA, identifies the level of work to be performed by the CVA, and identifies the documents which will be furnished with the platform application. Furthermore, the following design documentation, and the documentation listed under 3.2.1, shall be submitted as a part of the plan:

a. Computer program descriptions which consist of abstracts of the computer programs used or to be used in various phases of the design process.

Pacific, Gulf of Alaska, Arctic, and Atlantic

b. Fatigue assessment details which consist of a summary of the fatigue analysis as specified in the "Requirements." The requirement for fatigue analysis shall be determined on a case-by-case basis. Where doubt exists concerning the requirement for this analysis, questions shall be referred to the Supervisor.

Gulf of Mexico

b. Fatigue assessment details which consist of a summary of the fatigue analysis as specified in the "Requirements." A fatigue analysis shall be performed for each steel template, pile-supported platform with natural periods greater than 3 seconds and for each structure to be fabricated of high-strength steel (i.e., over 345 MPa (50 ksi) minimum yield). The requirement for a fatigue analysis shall be determined on a case-by-case basis for all other platforms or other structures. Where doubt exists concerning the requirement for this analysis, questions shall be referred to the Supervisor.

The design verification plan shall be resubmitted for approval if the CVA changes, if the CVA's qualifications change, or if the level of work to be performed by the CVA changes. However, the summary of technical details needs not be resubmitted unless changes are made in the technical details.

3.3 *Fabrication Verification Plan.* For new platforms or other structures, and for modifications or repairs, which are subject to review under the requirements of the Platform Verification Program, the lessee shall submit a fabrication verification plan subsequent to the approval of the design.

The plan shall include a short summary which nominates the CVA, states the qualifications of the CVA, describes how the lessee intends to use the CVA, identifies the level of work to be performed by the CVA, and identifies the documents which will be furnished to the CVA. The plan shall also include a summary description of the following:

a. Structural tolerances.

b. Welding procedures.

c. Fabrication standards.

d. Material quality-control procedures.

e. Methods and extent of Non-Destructive Examinations (NDE) for welds and materials.

f. Quality Assurance procedures. The fabrication verification plan shall be resubmitted for approval if the CVA changes, if the CVA's qualifications change, or if the level of work to be performed by the CVA changes. However, the summary of technical details needs not be resubmitted unless changes are made in the technical details.

3.4 *Installation Verification Plan.* For new platforms or other structures, and for modifications or repairs, subject to review under the requirements of the Platform Verification Program, the lessee shall submit an installation verification plan, subsequent to the approval of the fabrication. The plan shall include a short summary which nominates the CVA, states the qualifications of the CVA, describes how the lessee intends to use the CVA, identifies the level of work to be performed by the CVA, and identifies the documents which will be furnished to the CVA. The plan shall also include a summary description of the planned marine operations, contingencies considered, alternate courses of action, and a sumary description of the inspections to be performed during marine operations, including a graphical identification of areas to be inspected and acceptance/rejection criterion. The installation verification plan shall be resubmitted for approval if the CVA changes, if the CVA's qualfications change, or if the level of work to be performed by the CVA changes. However, the summary of technical details needs not be resubmitted unless changes are made in the technical details.

For structures fabricated and installed in place (e.g., ice islands and gravel islands), the fabrication and installation verification plans may be combined.

4. *Records.* The lessee shall compile, retain, and make available for review for the functional life of the platform or other structure that is subject to the provisions of this Order, the as-built final design, the design assumptions and analysis, the fabrication records, the marine operations records, and the inspection records.

5. *Departures.* All departures from the requirements specified in this Order shall be subject to approval, pursuant to 30 CFR 250.12(b).

Approved:————————

Chief, Conservation Division.

Operating Procedures for the OCS Platform Verification Program

Prepared by the United States Geological Survey, Conservation Division, Branch of Marine Oil and Gas Operations, June 6, 1979.

Preface

This document is intended to describe general requirements and operating procedures for the Platform Verification Program concerning the structural integrity of fixed and/or bottom-founded new platforms or other structures, and major modifications or repairs to such structures, associated with oil and gas on the Outer Continental Shelf (OCS) of the United States. The Platform Verification Program is intended to provide maximum assurance for structural integrity while at the same time:

- Assuring both the Government and industry that OCS resource development may proceed in a safe manner within reasonable time frames;
- Incorporating sufficient flexibility to accommodate a variety of designs and methods of installation for all OCS Areas; and
- Accomodating and encouraging new technology.

Other aspects of the Platform Verification Program are described further and in more detail in the following documents:

- OCS Order No. 8.
- Requirements for Verifying the Structural Integrity of OCS Platforms (hereafter referred to as "Requirements").
- Appendices to Requirements for Verifying the Structural Integrity of OCS Platforms (hereafter referred to as "Appendices").
- Commentary on Requirements for Verifying the Structural.

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I. Introduction

The U.S. Geological Survey (USGS) has been delegated authority by the Secretary of the Interior to regulate oil and gas operations on leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.). This authority includes responsibilities relating to prevention of waste and the conservation of natural resources. The manifestation of this responsibility which is addressed by the Platform Verification Program involves ensuring that offshore oil and gas platforms and other structures have a high probability of surviving the environmental and operational conditions to which they may be exposed.

The Platform Verification Program is a mandatory program which makes available to the appropriate Area Oil and Gas Supervisor the technical resources necessary to evaluate the structural adequacy of fixed or bottom-founded platforms or other structures and major modifications or repairs of damage thereto.

II. Verification Steps

The platform verification process will be initiated by submission of a Plan of Development/Production by the lessee to the Area Supervisor and, for a major modification or repair of damage, by an application of the proposed action from the lessee to the Supervisor.

The process for a new platform or other structure will be performed in four steps associated with the area Supervisor's approval of the following items:

- Plan of Development/Production.
- Platform Design.
- Platform Fabrication.
- Platform Installation.

For a major modification or repair of damage to a platform or other structure, the process may be performed in three steps associated with the area Supervisor's approval of one or all of the following items and in a manner similar to that for a new platform or other structure:

- Design.
- Fabrication.
- Installation.

Installation is defined to include all marine operations relative to installation, from load-out to final field erection.

A. Identification of responsible parties

The following parties are directly involved in the verification process:

- Lessee.
- Area Supervisor.
- Platform Verification Section (PVS).
- Certified Verification Agent/Agents (CVA).
- Design Contractor.
- Fabrication Contractor.
- Branch of Marine Oil and Gas Operations, Conservation Division (BOMOGO).

Additionally, and Environmental Data and Information Management System (EDIMS) is planned for future development by the USGS. EDIMS will be a computer-based information system which is primarily designed to provide environmental, geologic, and geotechnical information for baseline purposes and for detailed engineering review of platform proposals by the PVS as well as any other USGS organizational units which have a need for such data. EDIMS will also be made available to all parties involved in the verification process. The system will initially be based upon publicly available data but may eventually incorporate proprietary data requiring appropriate controls.

B. Responsibilities

1. *General.* The responsibility for the structural adequacy of lessee. The CVA, the design contractor, the fabrication contractor, and the installation contractor will be hired by and be directly responsible to the lessee to assure that the proposed platform or other structure meets the requirements of the lessee and the "Requirements"' of the USGS.

2. *Lessee.* The lessee is responsible for the following:

a. To meet the requirements of OCS Order No. 8.

b. To nominate and to hire an approved CVA for the design, fabrication, and installation phases, or some combination of these verification phases.

3. *CVA.* The CVA is responsible for the following:

a. To obtain USGS approval as a CVA.

b. To provide an independent review of the design, fabrication and/or installation phases.

c. To maintain their objectivity without conflict of interest and applicable individual or staff technical capability for each platform project.

d. To submit to the lessee copies of the CVA verification report and recommendations.

e. To submit to the Supervisor three copies of the final CVA verification report and recommendations.

f. To review changes affecting the particular phase of the verification process within his scope of responsibility.

g. To explain the final CVA verification report and recommendation, as necessary.

4. *Area supervisor.* The Area Supervisor is responsibile for the review and approval of all operations on an OCS lease by the lessee. Under this program, the activities will be covered by a Plan of Development/Production, and the Area Supervisor will be responsible for the following:

a. To approve or disapprove the final design of the platform or other structure and the verification plans considering the recommendations of the PVS.

b. To receive and distribute all submissions by the lessee and the CVA.

5. *PVS.* The PVS acts as a technical advisor to the Area Supervisor and is responsible for the following:

a. To certify, monitor, and evaluate CVA's.

b. To review and evaluate, as necessary, portions of Plans of Development/Production pertinent to the structural aspects of platforms and other structures subject to the Platform Verification Program.

c. To make recommendations in writing to the Area Supervisor concerning the design, fabrication, and installation of proposed platforms and other structures, pursuant to OCS Order No. 8.

d. To enter into discussions or disputes, as necessary, for various phases of the verification process.

e. To evaluate and accept or reject all CVA recommendations.

6. *BOMOGO.* The Bomogo, acting as staff advisor to the Chief, Conservation Division, is responsible for the following:

a. To coordinate with Geologic Division on establishing and operating EDIMS.

b. To enter into discussions or disputes, as necessary, for various phases of the verification process.

III. Disputes Procedures

Disputes that arise during any phase of the verification process will be arbitrated by the USGS. Formal request for arbitration of a dispute shall be made by one of the disputing parties to the designated arbitrator.

A. Lessee vs. CVA

Disputes between the lessee and the CVA concerning the platform Verification program willl be arbitated by the PVS.

B. Lessee vs. PVS

Disputes betwen the lessee and the PVS concerning the Platform Verification Program will be arbitrated by the Area Supervisor.

C. CVA vs. PVS

Disputes between the CVA and the PVS will be arbitrated by the Chief, Conservation Division.

D. Other

All other disputes, or disputes that cannot be satisfactorily resolved as indicated above, will be arbitrated in accordance with 30 CFR 250.81.

IV. Certified Verification Agent Criteria

Pursuant to the provisions of OCS Order No. 8, the USGS will maintain a list of Certified Verification Agents (CVA) to be utilized for the design review of proposed platforms and the monitoring of the fabrication and installation processes. CVA's will be qualified by the Platform Verification Section (PVS).

A. Application for certification

Individuals or organizations may apply directly to the PVS for certification or may be nominated by a lessee planning to utilize the services of an individual or organization with respect to a particular platform proposal. The qualifications of the individual or organization must be submitted in detail for review by PVS personnel.

B. Qualification standards

CVA's will be selected on the basis of technical competence and experience in offshore engineering; objectivity without conflict of interest; and ability to apply USGS requirements and to operate within limits of USGS inspection procedures.

The submittal of qualifications should include the following:

1. Previous experience in the design, fabrication, and/or installation of offshore oil and gas platforms or other structures.

2. Technical capabilities of individual or staff and primary staff to be associated with CVA functions.

3. Size and type of organization or corporation and financial status.

4. In-house availability of, or ready access to, appropriate technology, such as computer programs and hardware, and testing materials and equipment.

5. Ability to perform regionally or nationally, considering current commitments.

6. Previous experience with USGS requirements and procedures. (Such experience is desirable but not mandatory.)

Any individual or organization may be certified for any or all of the three phases of concern, namely, design, fabrication, and installation. Pertinent experience and capability will be required for each phase. For the design phase, the design review must be conducted by, or under the direct supervision of, an experienced registered professional civil and/or structural engineer. In order to maintain objectivity and to operate as an unbiased technical reviewer, individuals or organizations acting as CVA's shall not function in any capacity other than that of a CVA for a specific platform. After submittal of the above qualifications and after approval by the PVS, an appropriate certification will be issued to the agent. The review by PVS personnel may involve a visit to the CVA applicant's office or facility to check the applicant's capacity to perform the CVA's functions.

The PVS will periodically spot check the CVA's activities, staff, and facilities to assure adherence to USGS instructions, requirements, and procedures. Unexplainable or unacceptable deviations may result in withdrawal of approval as CVA by the PVS.

C. Recertification

Initial certification as CVA will remain in effect for 2 years unless otherwise revoked by the PVS. Recertification will be considered upon receipt of a written request from the CVA at any time within 90 days prior to the expiration of the initial or the extended period. The request shall confirm the CVA's capabilities and shall note any changes from the original application. However, once a certification has expired, it is not renewable without reapplication in accordance with paragraphs 1 and 2 above. Extensions may be approved for an additional period of 2 years.

If certification is revoked or expires, a reapplication may be submitted for a temporary period only to cover continuing work on a specific platform.

V. Instructions to CVA

A. Design Phase

As soon as possible after the CVA has been selected by the lessee and approved by the PVS, the CVA shall obtain from the lessee all documents required to facilitate the design review.

The CVA shall conduct the design verification to insure that the proposed platform has been designed to withstand the maximum environmental and functional load conditions anticipated during the service life of the platform at the proposed location.

The CVA shall utilize the applicable provisions of the USGS "Requirements" and good engineering practice in conducting an independent assessment of the adequacy of all proposed planning criteria, environmental data, load determinations, stress analyses, material designations, soil and foundation conditions, safety factors, and other pertinent parameters of the proposed platform design.

All data provided to the CVA must be handled by the CVA in the strictest of confidence. The proprietary nature of the lessee's platform design shall be honored, and the CVA shall neither copy and disseminate the data nor utilize information acquired in another competitive venture.

Interim reports shall be submitted by the CVA, as necessary, to the Supervisor and the lessee. A final report shall be prepared which summarizes the material reviewed by the CVA, his findings, and his recommendation that the Supervisor either accept, request modifications, or reject the proposed design. In addition, the report shall include particulars of how, by whom, and when the independent review was conducted and any special comments considered necessary.

The design verification for a specific platform should be completed and the final report submitted, in triplicate, to the Area Supervisor within 6 weeks of the receipt of design data or approval to act as a CVA, whichever is later.

B. Fabrication Phase

As soon as possible after the CVA has been selected by the lessee and approved by the PVS, the CVA shall obtain from the lessee all data, schedules, material specifications, welding requirements, and testing procedures required to facilitate the fabrication process review and monitoring.

The CVA shall monitor the fabrication of the platform to verify that it has been built in accordance with the approved design plans and specifications and in accordance with the fabrication plan. Periodic onsite inspections shall be made while fabrication is in progress. The following are typical of the fabrication items to be verified:

1. Quality control by: (a) lessee (b) builder.

2. Fabrication site facilities.

3. Material quality and identification methods.

4. Specified fabrication procedures and adherence to same.

5. Welder qualification and identification.

6. Structural tolerance specified and adherence to same.

7. NDE requirements and evaluation results of the specified examinations.

8. Destructive testing requirements and results.

9. Repair procedures.

10. Installation of corrosion protection systems and splash zone protection.

11. Erection procedures (to ensure that overstressing of members does not occur).

12. Alignment procedures.

13. Dimensional check of the overall structure.

14. Status of quality control records at various stages of fabrication.

The CVA shall utilize the applicable provisions of the USGS "Requirements" and good engineering practice in conducting an independent assessment of the adequacy of the fabrication of the platform. Interim reports shall be submitted by the CVA, as necessary, to the Supervisor and the lessee. If the CVA finds that fabrication procedures are changed or design specifications are modified, both the lessee and the Supervisor shall be informed. This may require submittal of additional applications for approval to the Supervisor of design or fabrication plan changes and may result in discontinuation of fabrication, if appropriate. A final report shall be prepared by the CVA covering the adequacy of the entire fabrication phase; giving details on how, by whom, and when the independent monitoring activities were conducted; and any special comments considered necessary. The final report shall describe the CVA's activities during the verification process, summarize his findings, and contain his confirmation (or denial) of compliance with the design specs and the approved fabrication plan. The report shall be submitted, in triplicate, to the Area Supervisor immediately after completion of the fabrication of the platform.

C. Installation Phase

As soon as possible after the CVA has been selected by the lessee and approved by the PVS, the CVA shall obtain from the lessee all drawings, data, schedules, and equipment, barge, and support vessel plans required to facilitate the monitoring of installation activities.

The CVA shall witness the load-out and transportation of the platform from the fabrication site to the proposed location and the actual installation of the platform and shall verify that the platform has been installed at the proposed location in accordance with the approved design and the Installation Plan.

The CVA shall utilize the applicable provisions of the USGS "Requirements" and good engineering practice in conducting an independent assessment of the adequacy of the installation activities. The following are typical parts of the overall process to be verified:

1. Load-out and initial flotation operations (if any).

2. Towing operations to the specified location.

3. Launching and uprighting operations.

4. Submergence operations.

5. Pile installation.

6. Final deck and/or component installation.

The CVA, is observing the installation activities, shall spot check equipment, procedures, and recordkeeping, as necessary, to determine compliance with the USGS "Requirements" and the approved plans and shall immediately report to the Area Supervisor and the lessee any discrepancies or damage to structural members. Approval for modfified installation procedures or for

repairs to damaged structural members shall be obtained from the Area Supervisor. Interim reports shall be submitted by the CVA, as necessary, to the Area Supervisor and the lessee.

A final report shall be prepared by the CVA covering the adequacy of the entire installation phase; giving details on how, by whom, and when the independent monitoring activities were conducted; and giving any special comments considered necessary. The final report shall describe the CVA's activities during the verification process, summarize the findings, and contain a confirmation (or denial) of compliance with the approved Installation Plan. The report shall be submitted, in triplicate, to the Area Supervisor within 2 weeks of completion of the installation of the platform.

[FR Doc. 79-20366 Filed 6-29-79; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Mining Plan of Operations at Denali National Monument; Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Jack W. Brittain has filed a plan of operations in support of proposed mining activities on lands embracing his Mining Claim Group within the Denali National Monument. This plan is available for public inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: May 25, 1979.

Robert L. Peterson,

Acting Area Director, Alaska Area Office.

[FR Doc. 79-20361 Filed 6-29-79; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, John McClain has filed a plan of operations in support of proposed mining activities on lands embracing his Mining Claim Group within the Denali National Monument. This plan is available for public inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: June 4, 1979.

Robert L. Peterson,

Acting Area Director, Alaska Area Office.

[FR Doc. 79-20363 Filed 6-29-79; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Wrangell–St. Elias National Monument; Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Melvin N. Barry, has filed plans of operations in support of proposed mining activities on lands embracing his Mining Claim Group within the Wrangell–St. Elias National Monument. These plans are available for public inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: May 30, 1979.

Robert L. Peterson

Acting Area Director, Alaska Area Office.

[FR Doc. 79-20362 Filed 6-29-79; 8:45 am]

BILLING CODE 4310-70-M

Appalachian National Scenic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Appalachian National Scenic Trail Advisory Council will be held at the Sugarloaf Ski Area, Carrabassett, Maine on August 10, 1979, from 9 a.m. to 3 p.m. A get-acquainted meeting will be held at 6 p.m. on August 9, at the same location. The agenda of the meeting will include the Trail protection program, State cooperation and Trail planning.

The Council has been re-established by Pub. L. 95-248 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the administration of the Appalachian National Scenic Trail. The Council was originally established by Pub. L. 90-543.

The meeting will be open to the public, although space will be limited. Persons will be accommodated on a first-come, first-served basis. Any person may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who will wish to submit written statements, may contact David A. Richie, Project Manager, Appalachian Trail Project Office, Harpers Ferry Center, Harpers Ferry, West Virginia 25425, at Area Code (304) 535-2346.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the above address. Copies of the minutes will also be available from the Appalachian Trail Office, National Park Service, 15 State Street, Boston, Massachusetts 02109; Room 3120, Interior Building, 18th and C Streets, NW., Washington, DC and at the Headquarters of the Appalachian Trail Conference, Washington Street, Harpers Ferry, West Virginia.

Dated: June 25, 1979.

David A. Richie,

Project Manager.

[FR Doc. 79-20379 Filed 6-29-79; 8:45 am]

BILLING CODE 4310-70-M

Hite Resort and Marina, Inc.; Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before August 1, 1979, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Hite Resort and Marina, Inc., authorizing it to continue to provide marina, merchandise, automobile gas station and related facilities and services for the public at Glen Canyon National Recreation Area for a period of five (5) years from January 1, 1979, through December 31, 1983.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal Action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Office of the Superintendent, Glen Canyon National Recreational Area.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing concession permit which expired by limitation of time on December 31, 1978, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Hite Resort and Marina, Inc., as the present satisfactory concessioner, the right to

meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of Hite Resort and Marina, Inc., is substantially equal to others received. In the event a responsive proposal superior to that of Hite Resort and Marina, Inc., (as determined by the Secretary) is submitted, Hite Resort and Marina, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Hite Resort and Marina, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be submitted on or before August 1, 1979, to be considered and evaluated.

Interested parties should contact the Chief, Office of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: June 28, 1979.

L. E. Sules,

Acting Associate Director, National Park Service.

[FR Doc. 79-20378 Filed 6-29-79; 8:45 am]

BILLING CODE 7310-70-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the Continental Plaza Hotel, North Michigan Avenue at Delaware, Chicago, Ill., on July 20, 1979 beginning at 9:00 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion in the Joint Board's examinations in actuarial mathematics and methodology, referred to in Title 29, U.S. Code, Sections 1242(a)(1) (B) and (C). A determination as required by Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that this meeting is for the purpose of considering matters falling within the exemption to public disclosure set forth in Title 5, U.S. Code, Section 552(b)(5), and that the public interest requires such meeting be closed to public participation.

Dated: June 27, 1979.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 79-20290 Filed 6-29-79; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Competitive Graduate Research Fellowships; Fiscal Year 1980 Competitive Graduate Research Fellowship Program

Notice is hereby given that, pursuant to the authority contained in the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3742(b)(5), the Law Enforcement Assistance Administration is conducting the sixth annual Graduate Research Fellowship Program Competition.

Fellowship grants are awarded to universities which administer the awards in behalf of the fellows. The fellowship grant provides funds for a one-year period to support the fellow and dependents, major project costs, and some university fees. The maximum grant is $10,000.

Doctoral candidates in crime-related fields of study who have finished their course work and are prepared to work on their dissertations are eligible to compete for the limited number of fellowships. A candidate must submit to LEAA a brief concept paper describing the project, a proposed budget, and a letter of support from the sponsoring university. The concept paper should include the following: a statement of the problem, objectives of the study, description of the methodology, policy implications of the findings, time schedule of the study, and assurances of needed cooperation from outside sources. An original and two copies of each of these documents should be submitted.

Concept papers and related documents will be reviewed by a panel of criminal justice academicians and LEAA specialists. Proposals will be judged on the basis of originality and need for the research, the quality and feasibility of the methodology, the practical applicability of the findings, and the applicant's qualifications for the project. Proposals which are especially encouraged would be those that contribute to improved research and evaluation methodologies, the improvement of criminal justice services, or criminal justice manpower planning and development.

The universities enrolling those candidates who are selected following the two levels of review will be invited to submit formal applications. Final selection of fellows will be made following the review of formal applications.

The deadline for the submission of concept papers for the fiscal year 1980 Graduate Research Fellowship Competition is October 1, 1979. Awards will be made early in calendar year 1980. All awards are contingent upon Congressional appropriation and authorization for the Graduate Research Fellowship Program.

Inquiries should be directed to the Graduate Fellowship Program, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C. 20531. Telephone (301) 492-9144.

J. Price Foster,

Director, Office of criminal Justice Education and Training.

June 7, 1979.

[FR Doc. 79-20357 Filed 6-29-79; 8:45 am]

BILLING CODE 4410-18-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Evaluation of Licensee Event Reports; Meeting

The ACRS Subcommittee on Evaluation of Licensee Event Reports will hold an open meeting on July 19, 1979, in Room 1046, 1717 H Street, N.W., Washington, DC 20555 to continue its review of Licensee Event Reports (LERs). Notice of this meeting was published on June 28, 1979.

In accordance with the procedures outlined in the **Federal Register** on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Thursday, July 19, 1979,

8:30 a.m. until the conclusion of business.

The Subcommittee will meet with any of its consultants who may be present, and with representatives of the NRC Staff and their consultants, to continue its review of LERs submitted during the period 1976–1978.

Also, one or more open Executive Sessions may be held to discuss LERs and a planned Subcommittee report to the full Committee.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Andrew L. Bates, (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Dated: June 27, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79–20296 Filed 6–29–79; 8:45 am]

BILLING CODE 7590–01–M

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.40, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated this 21st day of June 1979 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Acting Assistant Director, Export/Import and International Safeguards Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Mitsubishi Intern'l, 05/23/79, 05/29/79, XSNM01518	3.25% enriched uranium	40.023	1,302	Reload fuel for OHI 2 power plant	Japan.
Transnuclear, Inc., 05/30/79, 05/31/79, XSNM01519	3.35% enriched uranium	17,589.00	589.234	Reload fuel for Borssele Power Station.	Netherlands.
Transnuclear, Inc., 06/05/79, 06/06/79, XSNMO1521	93.3% enriched	33.00	30.80	Reload fuel for HFR reactor at Grenoble.	France.

[FR Doc. 79–20293 Filed 6–29–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–338; 50–339]

Virginia Electric & Power Co. (North Anna Power Station, Units 1 and 2); Issuance of Director's Decision Under 10 CFR 2.206

On December 20, 1978, the Commission published a notice in the **Federal Register** (43 FR 59451) that it had received a letter from the North Anna Environmental Coalition (NAEC) requesting that the Commission revoke the licenses for the Virginia Electric and Power Company's (VEPCO) North Anna Power Station, Units 1 and 2. License revocation was requested as enforcement action against VEPCO for alleged material false statements. The NAEC's letter was treated as a request for action under 10 CFR 2.206 of the Commission's regulations.

The Director of Inspection and Enforcement has considered the NAEC's request and determined not to institute enforcement action against VEPCO. Accordingly, the NAEC's request is denied.

A copy of the Director's decision will be placed in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and in the local public document room for the North Anna Power Station, located at the Louisa County Courthouse, Louisa, Virginia 23092, and at the University of Virginia, Alderman Library, Charlottesville, Virginia 22901. A copy of the decision will also be filed with the Secretary of the Commission for review in accordance with 10 CFR 2.206(c) of the Commission's regulations.

In accordance with 10 CFR 2.206(c) of the Commission's regulations, this decision will constitute the final action of the Commission twenty (20) days after the date of issuance, unless the Commission on its own motion institutes review of the decision within that time.

Dated at Bethesda, Md., this 25th day of June, 1979.

Victor Stello, Jr.,

Director, Office of Inspection and Enforcement.

[FR Doc. 79–20294 Filed 6–29–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–346A, 50–440A, and 50–441A]

The Toledo Edison Co. and the Cleveland Electric Illuminating Co., et al.; Order Modifying Antitrust License Condition No. 3 of Davis-Besse Unit 1, License No. NPF–3 and Perry, Units 1 and 2, CPPR–148, CPPR–149

The Director, Office of Nuclear Reactor Regulation has issued an order dated June 25, 1979. This order requires the amendment of License No. NPF–3 (Davis-Besse Nuclear Power Station Unit 1) and Construction Permit Nos. CPPR–148 and 149 (Perry Nuclear Plants Units 1 and 2, respectively), to become effective immediately, pending further order of the Commission. The amendment requires the Cleveland Electric Illuminating Company to file certain transmission schedules with the Federal Energy Regulatory Commission.

Copies of the order are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, DC 20555 and in the local public document rooms at Perry Public Library, 3753 Main Street, Perry Township, Ohio 44081 and the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452.

Dated at Bethesda, Maryland, this 25th day of June, 1979.

For the Nuclear Regulatory Commission.

Jerome Saltzman,

Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

[FR Doc. 79–20295 Filed 6–29–79; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

June 27, 1979.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Donald W. Barrowman—447-6202

New Forms

Economics, statistics, and cooperatives service
Study of consumer food related behavior
Attitudes and motives—Fourth phase
Single time
Sample of 2,100 households; 2,100 responses, 1,226 hours
Off. of Federal Statistical Policy & Standard, 673-7974
Science and Education Administration
4-H Pre-Test and Pilot Survey
EEP 1 thru 5
Single time
4-H Club Members 1,030 responses, 845 hours
Charles A. Ellett, 395-5080

Revisions

Agricultural Marketing Service
*Regulations and Reports Under U.S. Warehouse Act
On occasion
Grain Firms, Bankers, Public Commercial Whses.; 39,910 responses, 18,489 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

Revisions

Department of the Air Force
Material Requirements List (MRL) AFLCR 65-1 Chapter 4
Quarterly
Contract Maintenance of Air Force equipment; 1,848 responses, 31,416 hours
David P. Caywood, 395-6140

Extensions

Departmental and Other
*Application for Verification of Birth
DD 372
On occasion
State Health Department; 100,000 responses, 10,000 hours
David P. Caywood, 395-6140
Departmental and Other
Police Record Check
DD 369
On occasion
Police Departments; 350,000 responses, 35,000 hours
David P. Caywood, 395-6140

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—252-5214

New Forms

Energy Efficient Standards for Appliances
CS-179
Single time
413 Manufacturers of Covered Products; 413 responses, 57,489 hours
Jefferson B. Hill, 395-5867
*Surplus Natural Gas Survey
ERA-400
Weekly
3,250 Natural Gas Distributors, Sellers, etc.; 3,250 responses, 812 hours
Jefferson B. Hill, 395-5867
DOE/EIA Questionnaire A
EIA-401
Monthly
240 participants from 20 major oil companies; 240 responses, 19,200 hours
Jefferson B. Hill, 395-5867
Questionnaire for commercial and industrial
Time-of-Day Date Impact Anaylsis
ERA-131
Single time
400 commerical industrial firms having peak electric dem. over 500 kw; 400 responses, 1,600 hours
Jefferson B. Hill, 395-5867

Revisions

Monthly Motor Fuels Service Station Survey
EIA-79
Monthly
Selected service stations; 96,000 responses, 32,640 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245–7488

New Forms

Office of Education
Justification and Supporting Statement for the Evaluation of the ESAA–TV Program
OE–645
Single time
166 individuals involved in television programing; 166 responses, 214 hours
Laverne V. Collins, 395–3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—John T. Murphy—755–5190

Revisions

Community Planning and Development
Application for Rehabilitation Loan—Owner-Occupied Property Containing One-to-Four Dwelling Units
HUD–6230
On occasion
Owner-occupants of one-to-four-dwelling units; 5,500 responses, 5,500 hours
Arnold Strasser, 395–5080
Community Planning and Development
Application for Rehabilitation Loan-Investor-Owned Residential Property or Mixed-Use
HUD–6243
On occasion
Investors owning residential or mixed-use properties; 5,500 responses, 33,000 hours
Arnold Strasser, 395–5080
Community Planning and Development
*Request for verification of deposit
HUD–6234
On occasion
Applicants for sec. 312 rehabilitation loans; 11,000 responses, 2,750 hours
Arnold Strasser, 395–5080
Community Planning and Development
Request for Rehabilitation Loan Check
HUD–6236
On occasion
Agencies processing sec. 312 rehabilitation loans; 11,000 responses, 11,000 hours
Arnold Strasser, 395–5080
Community Planning and Development, Personal Financial Statement
HUD–6243A
On occasion
Investors in sold proprietorship in residential or mixed-use property; 11,000 responses, 11,000 hours
Arnold Strasser, 395–5080

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523–6341

Revisions

Employment Standards Administration
*Report of Ventilatory Study
CM–907
On occasion
Medical clinics, etc.; 15,000 responses, 5,000 hours
Arnold Strasser, 395–5080
Occupational Safety and Health Administration
*Training and Technical Assistance Record
OSHA–66
On occasion
Nonprofit organization providing safety and health service for OSHA; 1,020 responses, 255 hours
Arnold Strasser, 395–5080
Occupational Safety and Health Administration
*Course evaluation
OSHA–49
On occasion
Employers, employees and their representatives; 8,500 responses, 425 hours
Arnold Strasser, 395–5080

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426–1887

New Forms

Departmental and Other
Transportation Handicapped Attitude and Use Survey
Single time
Individuals and households in four urban areas; 1,200 responses, 2,550 hours
Office of Federal Statisitical Policy and Standard, 673–7974

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79–20382 Filed 6–29–79; 8:45 am]

BILLING CODE 3110–01–M

POSTAL SERVICE

International Postal Rates and Classification; Changes

AGENCY: Postal Service.

ACTION: Changes in International Postal Rates and a change in Classification of International Mail.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service is changing certain rates of postage on international mail and is making a classification change. The rate changes, which appear in the accompanying table, are international adjustments related to the eighth step increase of certain domestic postage rates which takes effect on the same date. The rate changes, as shown in the accompanying table, affect the exceptional surface rates for printed matter to all countries. The new rates for direct sacks of printed matter to one addressee, which appear in the table, were inadvertently omitted from the earlier May 14 notice of the other rate changes. We regret any inconvenience caused by that omission.

The classification change is a simplification: the two current categories of international mail printed matter known as "Publishers' second class" and "Publishers' controlled circulation" are being combined into one category to be known as "Publishers' Periodicals".

EFFECTIVE DATE: July 6, 1979.

FOR FURTHER INFORMATION CONTACT: Robert J. Barry, (202) 245–4414.

SUPPLEMENTARY INFORMATION: On May 14, 1979, the Postal Service published for comment in the **Federal Register** proposed changes in international postal rates and a proposed classification change (44 FR 28121). Four comments on the May 14 notice were received.

Two of the comments were from labor organizations, with members in the United States and Canada, which publish and mail trade journals to the membership. These publications are mailed domestically at the special second-class rate for non-profit publications. The commenters voiced their opposition to the increase in the international rates of what was formerly classified as Publishers' Second-Class from 8¢ to 10¢ for the first two ounces. One of these commenters further stated that the rate increase was unduly high and unjustified in view of the fact that the cost of mailing the publication to the Canadian membership was already higher than the cost for mailing the same publication to members in the United States. The Postal Service sets international rates at a level that compensates for the costs of providing the service. Domestic rates for second-class publications of qualified non-profit organizations are lower because they are subsidized through appropriations under authority of the Postal Reorganization Act. (39 U.S.C. 3626). However, there are no special subsidized international rates for those non-profit publications.

The third commenter objected to the rate increase on the ground that the quality of the international surface mail service has deteriorated over the past

two years making it not "fair and equitable" for the Postal Service to increase the rates. While the Postal Service has no evidence of general service decline, and tries to make the best use of international transportation that is available, the purpose of the rate increase is to recognize that the costs of providing the service have been increasing.

Both this commenter and the fourth commenter objected to the combination of controlled circulation and second-class publications into one category. These commenters believe that the merger of those two classes of mail is in conflict with tradition, public policy and Congressional intent. Urging that there is a fundamental difference between the two kinds of publications, with second class having paid circulation and controlled circulation having free circulation, both commenters argued that second-class publications have historically had a favored mail status. The commenters appeared to believe that by making the classification change the Postal Service was short-changing second-class mail.

The Postal Service is merging the two classes of international mail in order to bring United States international mail classifications more in line with the Universal Postal Union Convention (the UPU Convention). There is no intent to affect the distinction between second class and controlled circulation in domestic mail classification. The UPU Convention sets out rules to be applied in common throughout the international postal service. That Convention does not classify mail by categories similar to our domestic classifications. We believe that the classification change will speed the processing of international mail printed matter.

Although the UPU does not separate its printed matter category into separate classifications, it does provide some protection for newspapers and periodicals, the usual second-class publications. Item 14 of Article 19 of the UPU Convention permits each postal administration to allow a reduction of not more than 50% of the rate of printed matter for qualified newspapers, and periodicals. With this rate increase and classification change the rate for what were formerly classified as Publishers' second-class publications will be an approximate 40% reduction from the regular international printed matter rate. Thus, even with the rate and classification changes, these publications will still have a favored mail status.

The fourth commenter took issue with the Postal Service's reliance on the support given the classification change in one of the recommendations of last year's Task Force of Postal Service and mailing industry representatives on alternate delivery. It was the commenter's understanding that the Task Force recommendation was not unanimous. The commenter also pointed out that the general public did not participate in the Task Force's deliberations. However, second-class mailers were represented, and suggestions submitted by individual customers were reviewed and analyzed by the Task Force. The Task Force was established to analyze current mailing procedures and to recommend changes so that the Postal Service could better serve its customers. The Task Force majority endorsed this classication change, and the Postal Service agrees with this recommendation.

Finally, the fourth commenter requested the Postal Service to refrain from changing the rate structure until a position paper which is to be filed by the United States with a special commission created by the United Nations Educational Scientific and Cultural Organization to study world communication problems is made public. The commenter believes that the position paper is likely to address the issue of international postal rates. The Postal Service does not believe it should suspend this proposed change to await some future action which may or may not be relevant and would not be binding. We would, of course, consider any comments which may be made to the special commission concerning international rates and classifications, when they become available.

In view of the considerations discussed above, the Postal Service hereby adopts the classification change and, as amended, the rate changes which appear below. These changes are effective at 12:01 a.m., July 6, 1979.

(39 U.S.C. 401, 403, 404(2), 407, 410(a).

Fred Eggleston,

Acting Assistant General Counsel.

I. Exceptional Surface Rates for Printed Matter

All Countries

Ounces	Books and sheet music	Publishers' Periodicals [1]
2	$0.59	$0.10
4	0.59	0.13
8	0.59	0.24
16	0.59	0.43
32	0.81	0.72
64	1.25	1.01
96	1.69	1.51
128	2.02	2.02
Each additional 32	0.50	0.50

[1] Includes former categories "Publishers' second class" and "Publishers' controlled circulation."

II. Direct Sacks of Printed Matter to all Countries

Class of mail	Each 2 pounds or fraction
Books and sheet music	$0.50
Publishers' periodicals [1]	0.50

[1] Includes former categories "Publishers' second class" and "Publishers' controlled circulation."

[FR Doc. 79-19970 Filed 6-27-79; 2:54 pm]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21117; 70-6327]

Allegheny Power System, Inc.; Proposed Issuance and Sale of Common Stock

June 25, 1979.

NOTICE IS HEREBY GIVEN that Allegheny Power System, Inc. ("Allegheny"), 320 Park Avenue, New York, New York 10022; a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Allegheny proposes to issue and sell at competitive bidding up to 4,700,000 shares of its authorized but unissued common stock, par value $2.50 per share, for an estimated amount of $79,900,000. Allegheny states that it may, by amendment to the declaration, seek authorization to sell said common stock through a negotiated sale to underwriters if it appears desirable.

The proceeds of the sale of the common stock, together with other funds which may become available to Allegheny, will be used to repay outstanding short-term debt and for other corporate purposes. It is estimated that approximately $68 million of short-term bank loans or commercial paper will be outstanding at the time the common stock is issued. Allegheny used the proceeds of such short-term debt to make investments in its electric utility subsidiaries, which, in turn, used such funds to finance their construction programs, to repay short-term debt, and for other corporate purposes.

A statement of the fees and expenses to be incurred by Allegheny in

connection with the proposed transaction will be filed by amendment. It is stated that the Maryland Public Service commission has jurisdiction over the proposed issuance and sale of the common stock and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

NOTICE IS FURTHER GIVEN that any interested person may, not later than July 30, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of sevice (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the General rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the haring (if ordered) and any postponements thereof.

For the Commission, by the division of corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-20400 Filed 6-29-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 10747; 812-4387]

Difund, Inc., et al.; Filing of Application

June 27, 1979.

In the matter of Difund, Inc., The Dresser Building, 1505 Elm Street, Dallas, Texas 75201 and Merrill Lynch Basic Value Fund, Inc., Merrill Lynch Asset Management, Inc. and Fund Asset Management, Inc., 165 Broadway, New York, New York 10080.

Notice is hereby given that Difund, Inc. ("Difund"), Merrill Lynch Basic Value Fund, Inc. ("Basic Value") (Difund and Basic Value hereinafter jointly referred to as the "Funds"), Merrill Lynch Asset Management, Inc. ("MLAM"), and Fund Asset Management, Inc. ("FAMI") (hereinafter Difund, Basic Value, MLAM and FAMI are collectively referred to as "Applicants"), filed an application on November 3, 1978, and an amendment thereto on April 23, 1979, (1) pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting Basic Value from the provisions of Section 15(f)(1)(A) of the Act, (2) pursuant to Section 17(b) of the Act, for an order of the Commission exempting from the provisions of Section 17(a) of the Act the proposed reorganization of Difund with and into Basic Value and (3) pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, for an order of the Commission permitting participation in the proposed reorganization. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Difund, a Delaware corporation, is a diversified, open-end, management investment company, registered under the Act as an employees' securities company. Shares of Difund are offered at net asset value without a sales charge only to employees, former employees or persons on retainer of Dresser Industries, Inc. ("Dresser") and certain other "eligible purchasers." Difund's investment objective is to seek capital appreciation through the purchase of equity securities believed to provide attractive investment opportunities. Current investment income is an incidental consideration. As of April 30, 1979, the net assets of Difund were approximately $351,909.

Applicants state that Basic Value, a Maryland corporation, is a diversified, open-end, management investment Company registered under the Act. Basic Value's investment objective is to seek capital appreciation and, secondarily, income by investing in securities, primarily equities, believed to be undervalued and to represent basic investment value. As of March 31, 1979, the net assets of Basic Value were $83,852,158. Shares of Basic Value are offered at a public offering price equal to the net asset value plus varying sales charges. The public offering price may be reduced to the net asset value per share in connection with the acquisition of assets or the merger or consolidation with a public or private investment company.

Applicants state that on April 14, 1978, White Weld & Co., Incorporated ("White Weld"), which served as Difund's investment adviser, merged into Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill"), a subsidiary of Merrill Lynch & Co., Inc. ("Company"). MLAM, a wholly-owned subsidiary of Company, presently serves as the investment adviser for Difund pursuant to an investment advisory agreement dated July 26, 1978. The advisory contract provides that Difund will pay MLAM annual compensation of $100, payable quarterly, and that MLAM will reimburse Difund on an annual basis for the amount of expenses, excluding interest, taxes, brokerage commissions and extraordinary expenses, that exceed 1½% of the average market value of Difund's net assets. For the fiscal year ended October 31, 1978, Difund paid MLAM a management fee of $25 for the period during which MLAM acted as investment adviser to Difund. During that same period, MLAM reimbursed Difund $3,566 for expenses (including management fees) in excess of 1½% of the average market value of the net assets of Difund as of the end of each month.

On April 12, 1979, the Funds entered into an agreement and plan of reorganization ("Plan") which provides for (1) the reorganization of Difund through the acquisition by Basic Value of substantially all of the assets of Difund in exchange for shares of Basic Value and (2) the subsequent distribution to Difund's shareholders of shares of Basic Value in exchange for their shares of Difund. The proposed Plan is subject to the approval of a majority of the shareholders of Difund and to the receipt by Difund of an opinion of counsel to the effect that the transactions contemplated in the Plan will qualify as a tax-free reorganization. Basic Value will not assume any liabilities of Difund whether incurred in connection with the operation of the business of Difund, the acquisition of the Difund assets, the subsequent liquidation of Difund or otherwise. Neither Difund nor Basic Value shall bear its own expenses in connection with the transactions contemplated in the proposed Plan. Such expenses shall be borne by Dresser and MLAM in the amounts that are incurred by Difund and Basic Value respectively. Applicants state that a substantial amount of Difund's portfolio will be sold and brokerage costs which are estimated to be approximately $800 to $900 will be deducted on the valuation date from the market value of the securities sold.

Applicants state that the Plan has been approved by both the Difund Board and the Board of Directors of Basic Value ("Basic Value Board").

Applicants state that FAMI, a subsidiary of MLAM, has served as the investment adviser for Basic Value since the fund commenced operations on July 1, 1977. The investment advisory agreement between Basic Value and FAMI provides for a fee at the annual rate of 0.60% of the portion of average net assets not exceeding $100 million; 0.50% of average net assets exceeding $100 million but not exceeding $200 million; and 0.40% of that portion of net assets exceeding $200 million. The previous investment advisory agreement between Difund and White Weld provided for an annua fee, paid quarterly, computed on the average of the aggregate market value of the net assets of Difund as of the end of each month during said quarter as follows: 1% of the first $100,000; ½ of 1% of the next $900,000; 3/10 of 1% of the next $2,000,000; ¼ of 1% of the next $2,000,000; ⅛ of 1% of the next $5,000,000 of market value; and above $10,000,000, an amount to be agreed upon between Difund and White Weld, but not to exceed 3/10 of 1%.

Section 17(a)

Section 17(a) of the Act, in pertinent part, prohibits an affiliated of a registered investment company or any affiliated person of such an affiliated person, acting as principal, from knowingly selling any security or other property to such registered company or knowingly purchasing any security or other property from such registered company, subject to certain exceptions. The application states that the proposed acquisition of Difund's assets by Basic Value is a principal transaction subject to the prohibition of Section 17(a) of the Act because of the affiliated relationships of the parties involved. Section 17(b) of the Act provides, however, that the Commission, upon application, may exempt a proposed transaction from the provisions of Section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned, and with the general purposes of the Act.

Applicants assert that the proposed acquisition is consistent with the respective investment policies of the Funds and that Difund shareholders will receive shares of an open-end, management company with substantially identical investment objectives, fundamental policies and investment restrictions. Applicants state that the Difund Board believes it is uneconomical to manage Difund as an independent fund at its present size and that it is in the best interest of Difund and its shareholders to sell Difund's assets to Basic Value. Applicants contend that due to the proposed merger, Difund shareholders will be provided with services not available to them previously, including an automatic investment plan, systematic withdrawal plans, retirement plans and an exchange privilege with certain other funds sponsored by Merrill. Applicants point out that Difund also will benefit from economies of scale achieved in operating a larger fund. The operating expense ratio for Basic Value's fiscal year ending June 30, 1978, was 0.94% as compared to a ratio of 1.57% for Difund's fiscal year ending October 31, 1978. Applicants assert that the reorganization will result in a slight reduction in the advisory fee paid by Difund.

Applicants also assert the terms of the proposed acquisition are fair and reasonable to the stockholders of each Fund and do not involve overreaching by any party involved in the transactions, and that the proposed acquisition is consistent with and in furtherance of the policies of each Fund and the general purposes of the Act.

Section 17(d) and Rule 17d–1

Section 17(d) of the Act and Rule 17d–1 thereunder provide, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, to participate in or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company, or company controlled by such registered company, is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and an order granting such application has been issued. In passing upon such application, the Commission will consider whether the participation of such registered or controlled company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than that of other participants. A joint enterprise or other joint arrangement is defined in Rule 17d–1 as any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company or a controlled company thereof, and any affiliated person of such person, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking.

Applicants state that FAMI, through its receipt of increased investment advisory fees following Basic Value's acquisition of Difund assets, might be deemed to be a participant in a joint enterprise with Basic Value and Difund, and therefore subject to the provisions of Section 17(d) of the Act and Rule 17d–1 thereunder.

Applicants state that no party will participate in the proposed reorganization on a basis different from or less advantageous than that of any other party. Furthermore, Applicants state that the participation of the Funds in the proposed reorganization is consistent with the provisions, policies, and purposes of the Act.

Section 15(f)(1)(A)

Section 15(f)(1) of the Act provides, in relevant part, that:

> [a]n investment adviser . . . of a registered investment company . . . may receive any amount or benefit in connection with a sale of securities of, or a sale of any other interest in such investment adviser . . . which results in an assignment of an investment advisory contract with such company . . ., if (A) for a period of three years after the time of such action, at least 75 per centum of the members of the board of directors of such registered company . . . (or successor thereto, by reorganization or otherwise) are not (i) interested persons of the investment adviser of such company . . ., or (ii) interested persons of the predecessor investment adviser . . . and (B) there is not imposed an unfair burden on such company as a result of such transaction or any express or implied terms, conditions, or understanding applicable thereto.

The application states that the acquisition of White Weld by Merrill on April 14, 1978, resulted in the automatic termination of the investment advisor's agreement between Difund and White Weld and that a portion of the compensation paid by the Company to acquire White Weld could be construed to have been applicable to White Weld's advisory relationship with Difund. Since a small portion of the compensation paid by the Company to acquire White Weld could be susceptible to attack as compensation for the sale or assignment of the fiduciary relationship between White Weld and Difund first to MLAM

and then to FAMI, the Applicants seek the protection of Section 15(f) of the Act insofar as the merger of Difund and Basic Value results in a transaction subject to paragraph (1)(A) of Section 15(f) of the Act.

Since April 14, 1978, when MLAM began serving as Difund's investment adviser, the application states that the Difund Board has been in compliance with the requirement of Section 15(f)(1)(A) that 75% of its members not be interested persons within the meaning of Section 15(f)(1)(A). However, the Basic Value Board currently has six directors, only four of whom are not interested persons within the meaning of Section 15(f)(1)(A) of the Act. No adjustment in the composition of the Basic Value Board is contemplated following the acquisition of Difund by Basic Value and, therefore, Applicants seek an exemptive order from the requirements of Section 15(f)(1)(A).

Applicants state that compliance with the provisions of Section 15(f)(1)(A) would require Basic Value to reconstitute its board of directors. Applicants cite the directive to the Commission contained in Section 15(f)(3)(B) that consideration be given to a discrepancy in size of assets in deliberations on a request for an exemptive order from Section 15(f)(1)(A) when there is a sale of substantially all of the assets of one registered investment company to another. Applicants assert that this is precisely the situation of Difund and Basic Value.

Applicants state that the proposed asquisition by Basic Value of all the assets of Difund will be a significant benefit to Difund shareholders since they will continue to receive professional management at a reduced advisory fee and reduced expense ratio. Applicants further state that neither Fund will incur any expenses of the reorganization and assert that the acquisition of Difund will not result in any unfair burden on it. Finally, Applicants state that they are not requesting the Commission to endorse the method by which a successor investment adviser was selected for Difund.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionaly exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than July 20, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–20402 Filed 6–29–79; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–7658]

Documation Inc., Common Stock, $.01 Par Value; Application to Withdraw From Listing and Registration

June 26, 1979.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Documentation Incorporated (the "Company") has been listed for trading on the Amex since June 1, 1977. On June 8, 1979 the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith, the stock was suspended from trading on the Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal of the Company's common stock from listing and registration on the Amex and shall have no effect upon the continued listing of the such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before July 27, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–20401 Filed 6–29–79; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0173]

The Quiet Small Business Investment Corp.; Application for a License

Notice is hereby given of the filing of an application with the Small Business Administration (SBA), pursuant to Section 107.102 of the SBA Regulations (13 C.F.R. 107.102(1979)), under the name of The Quiet Small Business Investment Corporation, 100 East Garden Street, Pensacola, Florida 32501, for a license to operate in the State of Florida as an SBIC under the provisions of the Small Business Investment Act of 1958 (Act) as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and major stockholders are as follows:

Alton Woody, President, Director, 30 percent, 4460 Yarmouth Place, Pensacola, Fl. 32504.
Berton L. Brown, Vice President, 20 percent, 5707 Avenida Real, Pensacola, Fl. 32503.

James J. Reeves, Secretary, Treasurer, Director, 50 percent, 812 Ash Drive, Pensacola, Fl. 32503.
Edward Gray III, General Manager, (none), 217 Pinetree, Gulf Breeze, Fl. 32561.

The Applicant will begin operations with a capitalization of $500,000 which will be a source of long-term loans and venture capital for diversified small business concerns. In addition to financial assistance, the applicant will provide consulting services to its clients.

Matters involved in SBA's consideration of the application include the general business reputatjon and character of the proposed owners and management, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any interested person may on or before July 17, 1979, submit written comments on the proposed company to the Deputy Associate Administrator for Finance and Investment, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Pensacola, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: June 26, 1979.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79-20391 Filed 6-29-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Nuclear Regulatory Commission

Transportation of Radioactive Materials; Memorandum of Understanding

The roles of the Department of Transportation and the Nuclear Regulatory Commission in the regulation of the transportation of radioactive materials were described in a memorandum of understanding signed on June 8, 1979. The present memorandum supersedes a 1973 agreement between the Atomic Energy Commission and the Department of Transportation. A text of the memorandum is set forth below.

Radioactive Materials

Abstract. This agreement delineates the respective responsibilities of the Department of Transportation (DOT) and the Nuclear Regulatory Commission (NRC) for the regulation of safety in transportation of radioactive materials. It supersedes the existing agreement executed on March 22, 1973, between the DOT and the Atomic Energy Commission. Generally, the DOT is responsible for regulating safety in transportation of all hazardous materials, including radioactive materials, and the NRC is responsible for regulating safety in receipt, possession, use, and transfer of byproducts, source, and special nuclear materials. The NRC reviews and approves or denies approval of package designs for fissile materials and for other radioactive materials (other than low specific activity materials) in quantities exceeding Type A limits, as defined in 10 CFR Part 71.

Agreement between the DOT and the NRC. The Department of Transportation (DOT), under the Transportation of Explosives Act (18 U.S.C. 831–835), the Dangerous Cargo Act (R. S. 4472, as amended, 46 U.S.C. 170), Title VI and 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430 and 1472(h)), the Department of Transportation Act (49 U.S.C. 1655), and the Hazardous Materials Transportation Act (49 U.S.C. 1801–1812), is required to regulate safety in the transportation of hazardous materials, including radioactive materials.

The Nuclear Regulatory Commission (NRC), under the Atomic Energy Act of 1954, as amended (42 U.S.C. Chapter 23), and Section 201 of the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5841), is authorized to license and regulate the receipt, possession, use, and transfer of "by product material," "source material," and "special nuclear material" (as defined in 42 U.S.C. 2014). The NRC authority to license air shipment of plutonium is further governed by Pub. L. 94–79.

For the purpose of developing, establishing, and implementing consistent and comprehensive regulations and requirements for the safe transportation of radioactive materials, and avoiding duplication of effort, the DOT and the NRC agree, subject to their respective statutory authorities, as follows. Terms used in this agreement are defined in 49 CFR Parts 100–199 and 10 CFR part 71.

I. Development of Safety Standards

A. The DOT (in consultation with the NRC) will develop safety standards for the classification of radioactive materials; for the design specifications and performance requirements of packages for quantities of radioactive materials (other than fissile materials) not exceeding Type A limits and for low specific activity (LSA) radioactive materials; for the external radiation fields, labeling, and marking of all radioactive materials packages and vehicles; for the mechanical conditions, construction requirements, and tie-down requirements of carrier equipment; for the qualifications of carrier personnel; for the procedures for loading, unloading, handling, and storage in transit; for any special transport controls (excluding safeguards) necessary for radiation safety during carriage; and for all other safety requirements except those specified in the next paragraph.

B. The NRC (in consultation with the DOT) will develop safety standards for design and performance of packages for fissile materials and for quantities of other radioactive materials (other than LSA materials) exceeding Type A limits in the following areas:

1. Structural materials of fabrication;
2. Closure devices;
3. Structural integrity;
4. Criticality control;
5. Containment of radioactive material;
6. Shielding;
7. Generation of internal pressure;
8. Internal contamination of packages;
9. Protection against internal overheating; and
10. Quality assurance of packaging design, fabrication, testing, maintenance, and use.

II. Adoption of Safety Standards and Regulations

A. The DOT will adopt regulations imposing on shippers and carriers subject to its jurisdiction those standards developed by the DOT and the NRC pursuant to Section I of this Memorandum of Understanding and any additional requirements necessary to protect the public health and safety. The DOT will require NRC approval of designs of packages for shipment of fissile materials and other radioactive materials in quantities exceeding Type A limits (except LSA materials) by all persons subject to the jurisdiction of the DOT. The DOT will issue complete and comprehensive Federal regulations for the packaging and transportation of all radioactive materials as a part of its overall body of Federal regulations (49 CFR Parts 100–199) for the packaging and transportation of all hazardous materials.

B. The NRC will adopt packaging standards for fissile materials and for quantities of other radioactive materials (other than LSA materials) exceeding Type A limits and will adopt regulations imposing on its licensees administrative,

procedural, and technical requirements necessary to protect the public health and safety and to assure the common defense and security.

C. The NRC will adopt procedures, standards, and criteria for approval of package designs and for approval of special transport controls proposed by the applicant for a given package design. The NRC will require its licensees to comply with the DOT regulations when those persons are not otherwise subject to the DOT regulations.

III. Package Review

A. The DOT will submit to the NRC for review the following package designs:

1. Specification containers. Approval by the NRC of package designs for fissile mateials and for radioactive materials (other than LSA materials) in quantities exceeding Type A limits will be obtained before publication of such designs in the DOT regulations.

2. Packages with foreign certification. Approval by the NRC will be obtained before revalidation of the foreign certificates required in the DOT regulations for packags shipped between origins and destinations within the United States, except for import and export shipments. Approval by the NRC is not required if a package is used solely for export or import or if a package is authorized by the DOT regulations solely for transportation through or over the United States between origins and destinations outside the United States. the DOT has the responsibility for exercising discretion as to whether it requests NRC review of such packages.

3. Any package for which NRC evaluation is warranted in DOT opinion.

B. The NRC will evaluate package designs for fissile materials and for other radioactive materials (other than LSA materials) in quantities exceeding Type A limits and will, if satisfactory, issue approvals therefor (viz., a license, Certificate of Comliance, or other package approval) directly to the person requesting the approval.

IV. Inspection and Enforcement

A. Each agency will conduct an inspection and enforcement program within its jurisdiction to assure compliance with its requirements. The NRC will assist the DOT, as appropriate, in inspecting shippers of fissile materials and of other radioactive materials in quantities exceeding Type A limits.

B. The DOT and the NRC will consult each other on the results of their respective inspections in the areas where the results are related to the other agency's requirements, and each will take enforcement action as it deems appropriate within the limits of its authority.

V. Accidents and Incidents

A. The DOT will require of all carriers subject to its jurisdiction the notification and reporting to the DOT of accidents, incidents, and instances of actual or suspected leakage involving radioactive material packages if such an event occurs in transit and the DOT will promptly notify the NRC of such events.

B. The NRC will require of its licensees the notification and reporting to the NRC of accidents, incidents, and instances of actual or suspected leakage involving radioactive material packages if such an event occurs prior to delivery to a carrier for transport or after delivery to a receiver. The NRC will encourage the Agreement States [1] and the DOT will encourage the non-Agreement States to impose incident reporting requirements on shippers and receivers subject to the States' jurisdiction.

C. In all accidents, incidents, and instances of actual or suspected leakage involving packages of radioactive material regulated by the NRC, the NRC will normally be the lead agency for investigating the occurrence and preparing the report of the investigation. The DOT may either participate, as appropriate, in the investigation with the NRC as the lead agency or conduct a separate investigation. Subsequent to each investigation involving radioactive material regulated by the NRC, the NRC and the DOT will jointly define he scope of the enforcement actions to be taken by each agency to assure that shippers and carriers are subject to concurrent and equivalent enforcement actions but not unduly subject to duplicate enforcement actions.

D. This section V does not affect the authority of the National Transportation Safety Board, which is independent of the DOT and the NRC, to receive accident reports and to investigate transportation accidents.

VI. National Competent Authority

A. The DOT will be the national competent authority with respect to the administrative requirements set forth in the regulations for the Safe Transport of Radioactive Materials of the International Atomic Energy Agency (IAEA). In issuing certificates of competent authority for the United States under those regulations, the DOT will require for certain packages other than DOT specification containers an NRC approval in accordance with Section III.A of this Memorandum of Understanding. The NRC will provide to the national competent authority (DOT) technical support and advice pertaining to the transportation of radioactive materials.

B. The DOT will act as the representative of the United States to the IAEA and other international groups on matters pertaining to the administrative and safety regulatory aspects of transportation of radioactive materials. The NRC will provide technical support and advice to the DOT in this capacity.

VII. Exchange of Information

A. Prior to issuance of any regulations by either the DOT or the NRC involving transportation of radioactive materials, each agency will advise and consult with the other to avoid possible conflict in regulations and to assure that: (1) the regulations will afford adequate protection of the health and safety of the public; (2) the effect of these regulations will not be inimical to the common defense and security of the United States; and (3) the regulations are in the public interest.

B. The DOT and the NRC will exchange information, consult and assist each other within the areas of their special competence in the development and enforcement of regulations and procedures. Each agency will make available to the other, subject to security requirements and statutory provisions affecting the release of information, summaries of inspection records, investigations of serious accidents, and other matters relating to safety in the transportation of radioactive materials.

VIII. Working Arrangements

The NRC and the DOT will designate appropriate staff representatives and will establish joint working arrangements from time to time for the purpose of administering this Memorandum of Understanding.

IX. Effect

A. Nothing herein is intended to affect the statutory exemption of shipments of radioactive materials made by or under the direction or supervision of the Department of Energy or the Department of Defense in accordance with the provisions of 18 U.S.C. 832(c).

[1] States which have entered into an Agreement with the Atomic Energy Commission or the NRC pursuant to Section 274 of the Atomic Energy Act of 1954, as amended, under which the NRC has relinquished to such States the majority of its regulatory authority over source, byproduct and special nuclear material in quantities not sufficient to form a critical mass.

B. This agreement shall take effect upon the signing by authorized representatives of the respective agencies, and shall supersede in its entirety the March 22, 1973, Memorandum of Understanding between the DOT and the Atomic Energy Commission.

C. Nothing in this Memdorandum of Understanding is intended to restrict the statutory authority of either the DOT or the NRC.

Done at Washington, D.C., in triplicate, this 8th day of June 1979.

For the United States Department of Transportation.

James D. Palmer,

Administrator, Research and Special Programs Administration, Department of Transportation.

For the United States Nuclear Regulatory Commission.

Joseph M. Hendrie,

Chairman, Nuclear Regulatory Commission.

[FR Doc. 79-20398 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Airport Traffic Control Tower at Patrick Henry International Airport, Newport News, Va.; Reduced Hours of Operation

Notice is hereby given that the Airport Traffic Control Tower at Patrick Henry International Airport, Newport News, Virginia, will reduce its hour of operation effective August 9, 1979. Hours of operation will be at 7 a.m. to midnight daily.

(Sec. 313(a) of the Federal Aviation Act of 1958, 72 Stat. 752, 49 U.S.C. 1354)

Issued in New York, New York, on June 21, 1979.

[FR Doc. 79-20330 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

[FRA Emergency Order No. 11, Notice 8]

Amendment of Emergency Order Limiting Movement of Hazardous Materials; Louisville & Nashville Railroad Co.

On February 7, 1979, the Federal Railroad Administration (FRA) issued Emergency Order No. 11, placing certain limitations on the movement of railroad freight cars containing materials required to be placarded in accordance with Department of Transportation (DOT) regulations (49 CFR Parts 170–189) by the Louisville and Nashville Railroad Company (L&N), and by other railroads over L&N owned or leased track (44 FR 8402; February 9, 1979). The order has been amended on three occasions. On February 21, 1979, the FRA published an amendment to the order modifying the requirements of operative paragraph 5 concerning the placement of certain cars in train consists (44 FR 10559). On April 6, 1979, the FRA published an amendment rescinding the order with respect to the L&N line between Flomaton, Alabama, and Chattahooche, Florida (44 FR 21725). On June 12, 1979, an amendment was published lifting certain provisions of the order with respect to several identified line segments (44 FR 33755).

On June 18, 1979, the United States District Court for the District of Columbia, Judge Gesell presiding, granted the motion of the L&N for summary judgment on its application for declaratory and injunctive relief from the emergency order. *Louisville & Nashville R.R.* v. *Sullivan*, Civil Action No. 79–0485. The Department of Transportation has requested the Department of Justice to seek further review of the Court's decision.

Among the expressed bases for the Court's decision was the failure of the emergency order to specify the standards under which relief from the order could be obtained. The FRA agrees that a need exists to articulate the criteria and procedures employed in evaluating requests for relief. Accordingly, the operative terms of Emergency Order No. 11 are amended by adding the following paragraphs:

"9. In determining whether an emergency situation continues to exist or whether relief should be granted under paragraph 8 of this order with respect to hazardous materials operations over any portion of the L&N system, the following factors are considered:

"a. Whether, based on field inspections, track is found to be in substantial compliance with the Track Safety Standards (49 CFR Part 213) and can be expected to remain in substantial compliance based on established programs of maintenance and repair and prevailing traffic levels;

"b. Whether, based on field inspections, freight cars utilized by the railroad are found to be in substantial compliance with the Freight Car Safety Standards (49 CFR Part 215) and Power Brake Regulations (49 CFR Part 232), insofar as those standards bear on the immediate danger of train collision or derailment;

"c. Whether, based on field inspections, locomotives utilized by the railroad are in substantial compliance with the Locomotive Inspection Act (45 U.S.C. §§ 22–34) and implementing regulations (49 CFR Part 230), insofar as the Act and regulations bear on the immediate danger of train collision or deraillment; and

"d. Whether, based on field investigations, including interviews with employees and observation of train operations and training programs, those L&N personnel responsible for the use of equipment and facilities in rail transportation are informed of, and substantially comply with, operating rules and procedures adopted by the railroad or prescribed by Federal regulation which are essential to the safe operation of trains and the safe handling of hazardous materials cars in train. See 49 CFR parts 174, 217, 218.

"10. After completion of an investigation in response to a request for relief, the FRA invites the L&N to attend an informal conference at which FRA findings with respect to the particular request for relief are reported to the L&N and the response of the railroad is solicited. In the event factual disagreements are found to exist, an immediate reinspection is conducted; and the participation of railroad representatives in this inspection is solicited. In the case of any application for relief which is denied, the FRA specifies in writing the basis for the denial. On request, the FRA provides to the L&N a written status report with respect to the investigation of any pending application for relief."

This amendment to Emergency Order No. 11 is effective immediately. However, as noted above, the emergency order has been declared invalid and is not an operative document affecting the rights of liabilities of any party.

Authority: Sec. 203, 84 Stat. 972 (45 U.S.C. § 432); 49 CFR § 1.49(m).

Issued in Washington, D.C. on June 27, 1979.

John M. Sullivan,

Administrator.

[FR Doc. 79-20341 filed 6-29-79; 8:45 am]

BILLING CODE 4910-06-M

Materials Transportation Bureau

[Docket No. 79-2W, Notice 1]

Transportation of Natural and Other Gas by Pipeline; Petition for Waiver

The Department of the Army, Alaska District, Corps of Engineers (Corps), has petitioned the materials Transportation Bureau (MTB) for a waiver from compliance with the low temperature limitation of minus 20 degrees Fahrenheit in 49 CFR 192.123(b)(1) to

permit operation of a proposed plastic pipeline system down to minus 40 degrees Fahrenheit. The Corps is designing a buried gas distribution system to replace the present system in the community of Barrow, Alaska, for the Bureau of Indian Affairs. The completed gas distribution system is to by operated by the Barrow Utilities and Electric Cooperative.

The Corps is planning to use Driscopipe 7000 high density polyethylene pipe, manufactured by Phillips Products Company, Incorporated, for both mains and services that will be buried in permafrost in this gas distribution system.

Portions of the gas transmission system supplying gas to the distribution system are aboveground. As a result, during the winter months, the gas supply temperature is expected to reach a low of minus 40 degrees Fahrenheit, which is not only below the minimum temperature of minus 20 degrees Fahrenheit permitted under § 192.123(b)(1), but will also super chill the permafrost in contact with the pipe. During the summer months, the gas supply temperature is expected to be well above freezing and will cause thawing of the permafrost in parts of the system immediately adjacent to the buried pipe.

This type of freeze-thaw cycle permits pipe settlement causing tensile stresses. The petition indicates that steel pipe installed in such an environment in Barrow and similar Arctic communities has failed in very short times due to these stresses.

In constrast, the petition also stated the the Department of Public Works, Northwest Territory, Canada, has for 2 years operated a gas distribution system in Norman Wells, comprising high density polyethylene piping. Although gas temperatures have reached a minimum of approximately minus 50 degrees Fahrenheit and settlement of up to 2 feet has occurred without failure, the system has operated without pipe failures. The Corps states that this continued operation without failure is due to the properties of high density polyethylene that allow the material to relax the tensile stresses without failures.

As further supporting evidence that Driscopipe 7000 will perform safely at temperatures far below those anticipated in the waiver petition, the Corps submitted a Technical Information Bulletin on Driscopipe 7000 prepared by Phillips Products Company, Inc. This Bulletin includes data from tests showing that the pipe material has excellent strength and ductility at temperatures as low as minus 110 degrees Fahrenheit. Other test results show no signs of failures when the pipe is bent to a radius of 24 inches at a temperature of 40 degrees Fahrenheit. This Bulletin also indicates that the brittleness temperature, as determined by the ASTM D 746 test method, is lower than minus 180 degrees Fahrenheit

MTB is considering granting the requested waiver from the requirements of § 192.123(b)(1) for the following reasons:

1. The minus 20 degrees Fahrenheit operating temperature limit required under § 192.123(b)(1) does not appear appropriate for Driscopipe 7000.

2. The Driscopipe 7000 material appears to provide a safe, economic solution to the freeze-thaw condition anticipated for gas distribution systems buried in permafrost.

3. Unlike many other thermoplastic materials, ultra-high density polyethylene increases in strength with a decrease in temperature.

Interested persons are invited to comment on the proposed waiver by submitting in triplicate such data, views, or arguments as they may desire. Communications should identify the docket and notice numbers and be submitted to: Docket Branch, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590.

All comments received before August 13, 1979, will be considered before final action is taken. Late filed comments will be considered so far as practicable. All comments will be available at the Docket Branch, Materials Transportation Bureau, before and after the closing date for comments. No hearing is contemplated, but one may be held at a time and place set in a Notice in the **Federal Register** if requested by an interested person desiring to comment at a public hearing and raising a genuine issue.

(49 U.S.C. 1672; 49 CFR 1.53(a), Appendix A of Part 1 and Appendix A of Part 102.)

Issued in Washington, DC, on June 26, 1979.

Cesar De Leon,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 79-20338 filed 6-29-79; 8:45 am]

BILLING CODE 4910-60-M

Research and Special Programs Administration, Materials Transportation Bureau

List of Excepted Thermal Protection Systems for Tank Cars

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT

ACTION: Announcement of current list of excepted thermal protection systems for DOT Specification 112 and 114 tank cars.

SUMMARY: This notice announces the current list of thermal protection systems which may be used without further test verification on DOT Specification 112 and 114 tank cars to satisfy thermal protection retrofit requirements published under Docket HM-144. The current list of 10 thermal protection systems includes the 7 systems previously announced and adds systems 8 through 10.

ADDRESS: The current list of excepted systems and the test results upon which the list is based are available for public review during the hours 8:30 a.m.-5:00 p.m., Monday through Friday in the Dockets Branch, Room 6500, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590 (202-426-2077).

FOR FURTHER INFORMATION CONTACT: William F. Black, Office of Saftey, Federal Railroad Administration, Washington, D.C. 20590, 202-426-2748.

SUPPLEMENTARY INFORMATION: The thermal protection systems listed herein do not require further test verification under Section 179.105-4 (d) and (e), Title 49, Code of Federal Regulations (49 CFR), because they have been shown to meet those requirements by tests conducted at the Federal Railroad Administration's Transportation Test Center in Pueblo, Colorado. Systems 1 through 4 were listed in the preamble of Docket HM-144, Amdt. No. 179-9, which imposed certain retrofit requirements on the use of DOT Specification 112 and 114 tank cars (42 FR 46306, September 15, 1977). An editorial document correcting the manufacturer's name in system 1 and correcting the name of a component material in system 3 was published on January 16, 1978 (43 FR 2180). Systems 5 through 7 were listed in a notice published November 2, 1978 (43 FR 51112). Systems 8 through 10 are new and have not been previously published. This list of thermal protection systems remains open for additional entries. Systems that may be submitted to the Federal Railroad Administration in the future and which are shown to meet the test specifications in 49 CFR 179.105-4

will also be excepted from the test verification requirements and added to this list. The current list follows:

List of Excepted Thermal Protection Systems for DOT Specification 112 and 114 Tank Cars

1. One inch minimum thickness Deltaboard (12 pounds per cubic foot, 15 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (Deltaboard), Rock Wool Manufacturing Company, Leeds, Alabama.

2. The tank car external surface is prepard by sandblasting to remove all existing paint, primer, grease and loose material. Two mils (dry) of Thermolag primer-351 are applied to the clean surface. One hundred sixty-five mils (dry) of Thermolag 330–1 subliming compound is next applied to the primed surface. Five mils (dry) of Thermolag topcoat 350 is applied to the subliming coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

3. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, oil, grease and loose materials. Three mils (dry) of primer (Military Standard MIL–P–52192B) are applied to the clean surface. Chicken wire (1" hexagonal, 22-gauge) is next attached to the primed surface. One hundred eighty mils (dry) of Chartek 59 thermal coating is then applied. Three mils (dry) of a topcoat (AMERCOAT 383) is then applied. Topcoat manufacturer, Ameron, Brea, California. Manufacturer (Chartek 59), Avco, Lowell, Massachusetts.

4. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, grease and loose material. Seven-tenths mil (dry) of primer (a 2:1 ratio by volume of 513–003 base component and 9110 x 350 activator component) is applied to the clean surface. Two hundred thirty-five mils (dry) of thermal shield coating (a nominal 5:1 ratio by volume of 821 x 359 base component and 9110 x 407 activator component) is next applied to the primed surface. Two mils (dry) of topcoat (a 2:1 ratio by volume of 821 x 317 base component and 9110 x 376 activator component) is applied to the thermal shield material. Manufacturer, De Soto, Inc., Des Plaines, Illinois.

5. One inch minimum thickness of Kaowool Blanket B (minimum density of 4.5 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (Kaowool Blanket B), Babcock & Wilcox, Augusta, Georgia.

6. Sixty-five one hundredths inch minimum thickness Fiberfrax tank car insulation (minimum density of 4.5 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (Fiberfrax), Carborundum Company, Niagara Falls, New York.

7. One inch minimum thickness of HILBLOK 1212 (minimum density of 12.5 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (HILBLOK 1212), Holmes Insulations Limited, Toronto, Ontario, Canada.

8. One and one-half inches minimum thickness of Tank Wrap Insulation (minimum density of 6 pounds per cubic foot) compressed to a 1 inch thickness and encased in a 11-gauge steel jacket. Manufacturer (Tank Wrap Insulation), Forty-Eight Insulations, Inc., Aurora, Illinois.

9. Six-tenths inch minimum thickness of Cerawool Blanket (minimum density of 4 pounds per cubic foot) and 0.4 inches minimum thickness of air encased in an 11-gauge steel jacket. Manufacturer (Cerawool Blanket), Johns-Manville, Denver, Colorado.

10. Fifty-two one hundredths inch minimum thickness of Kaowool Blanket B (minimum density of 4.8 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (Kaowool Blanket B), Babcock and Wilcox Refractories Division.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A. to Part 1, paragraph (a)(4) of App. A to Part 106)

Issued in Washington, D.C., on June 25, 1979.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-20411 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Urban Initiatives Program: Program Guidelines

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of Addition to Guidelines.

SUMMARY: This notice contains an addition to the program guidelines for the Urban Initiatives Program which were recently published. The addition concerns the Civil Rights requirements for an Urban Initiatives project. These requirements were inadvertently omitted when the guidelines were published.

FOR FURTHER INFORMATION CONTACT: Casimir Bonkowski, Office of Grants Assistance, Phone: (202) 472–7037.

SUPPLEMENTARY INFORMATION: On April 10, 1979 (44 FR 21580), UMTA published a notice containing its guidelines for the Urban Initiatives Program. The Program provides funding for certain mass transportation related projects that enhance urban development.

The guidelines include a requirement that all projects meet the requirements for an UMTA Section 3 grant. The published guidelines indicated that these requirements are in the UMTA External Operating Manual. There are also Civil Rights requirements for Section 3 grants which are not in the Manual. These requirements are in separate circulars and should have been referenced in the Urban Initiatives guidelines. This notice lists the Civil Rights Circulars containing the requirements that must be met by each Urban Initiatives project.

The listing of Circulars will be placed in Section V D of the guidelines to read as follows:

V. *Project Selection Criteria and Requirements*

* * * * *

D. * * *

Each project must also:

* * * * *

3. Comply with the following UMTA Civil Rights Circulars:

a. 1160.1, "Guidelines for Title VI information Specific to UMTA Programs", dated December 30, 1977

b. 1155.1, "UMTA Equal Employment Opportunity Policy and Requirements for Grant Recipients", dated December 30, 1977

c. 1165.1, "UMTA Minority Business Enterprise Policy and Requirements for Grant Recipients", dated December 30, 1977

* * * * *

Dated: June 26, 1979.

Gary D. Gayton,

Deputy Administrator.

[FR Doc. 79-20340 Filed 6-29-79; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 4 (Rev. 9)]

Revenue Officers and Representatives; Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of authority.

SUMMARY: Clarifies the Order to include the authority to seek the special procedures for third-party summonses under IRC and revises the Order to provide that Revenue Officers and

Revenue Representatives may serve any properly issued summons and to provide that certain authority may be redelegated by a District Director to a Law Clerk (Estate Tax).

EFFECTIVE DATE: June 27, 1979.

FOR FURTHER INFORMATION CONTACT: William L. Rohde, 1111 Constitution Ave NW., Room 2135, Washington, D.C. 20224, 202–566–4314 (not toll free).

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

Thomas J. Clancy,

Director, Criminal Investigation Division.

Authority To Issue Summonses, To Administer Oaths and Certify, and To Perform Other Functions

1(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602–1(b), 301.7603–1, 301.7604–1, 301.7605–1(a) and the authorities contained in Section 7609 of the Internal Revenue Code of 1954 and vested in the Commissioner of Internal Revenue Service by Treasury Department Order No. 150–37, dated March 17, 1955, to issue summonses; to set the time and place for appearance; to serve summonses; to take testimony under oath of the person summoned; to receive and examine books, papers, records or other data produced in compliance with the summons; to enforce summonses; to apply for court orders approving the service of John Doe Summonses issued under Section 7609(f) of the Internal Revenue Code; and to apply for court orders suspending the notice requirements in the case of summonses issued under Section 7609(g) of the Internal Revenue Code, are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 1(b), 1(c), and 1(d) of this Order and subject to the limitations stated in paragraphs 1(b), 1(c), 1(d), and 6 of this Order.

(b). The authorities to issue summonses and to perform the other functions related thereto specified in paragraphs 1(a) of this Order, are delegated to all District Directors, the Director of International Operations, and the following officers and employees, provided that the authority to issue a summons in which the proper name or names of the taxpayer or taxpayers is not identified because unknown or unidentifiable (hereinafter called a "John Doe" summons) may be exercised only by said officers and employees and by them only after obtaining preissuance legal review by Regional Counsel, Deputy Regional Counsel (General Litigation) or District Counsel, or the Director, General Litigation Division in the case of Inspection.

(1) Inspection: Assistant Commissioner and Director, Internal Security Division.

(2) District Ciminal Investigation: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(3) International Operations: Chiefs of Divisions.

(4) District Collection Activity: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(5) District Examination: Chief of Division, except this authority in streamlined districts is limited to the District Director.

(6) District Employee Plans and Exempt Organizations: Chief of Division.

(c) The authorities to issue summonses except "John Doe" summonses, and to perform other functions related thereto specified in paragraph 1(a) of this Order, are delegated to the following officers and employees:

(1) Inspection: Regional Inspectors and Assistant Regional Inspectors (Internal Security) and Chief, Investigations Branch.

(2) District Criminal Investigation: Assistant Chief of Division; Chiefs of Branches; and Group Managers.

(3) International Operations: Assistant Director; Chiefs of Branches; Case Managers; and Group Managers.

(4) District Collection Activity: Assistant Chief of Division; Chiefs of Collection Section; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staffs; Chiefs, Technical and Office Compliance Branches and Groups and Group Managers.

(5) District Examination: Chiefs of Branches, Case Managers, Group Managers and, in streamlined districts, chiefs, Examination Section.

(6) District Employee Plans and Exempt Organizations: Group Managers.

(d) The authority to issue summonses except "John Doe" summonses and to perform the other functions related thereto specified in paragraph 1(a) of this Order is delegated to the following officers and employees except that in the instance of a summons to a third party witness, the issuing officer's case manager, group manager, or any supervisory official above that level, has in advance personally authorized the issuance of the summons. Such authorization shall be manifested by the signature of the authorizing officer on the face of the original and all copies of the summons or by a statement on the face of the original and all copies of the summons, signed by the issuing officer, that he/she had prior authorization to issue said summons and stating the name and titlte of the authorizing official and the date of authorization.

(1) International Operations: Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Special Agents; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers, GS–9 and above.

(2) District Criminal Investigation: Special Agents.

(3) District Collection: Revenue Officers, GS–9 and above.

(4) District Examination: Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(5) District Employee Plans and Exempt Organizations: Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(e) Each of the officers and employees referred to in paragraphs 1(b), 1(c), and 1(d) of this Order may serve a summons whether it is issued by him/her or another official.

(f) Revenue Officers and Revenue Representatives who are assigned to the District Collection Activity and to International Operations may serve any summons issued by the officers and employees referred to in paragraphs 1(b), 1(c) and 1(d) of this Order.

2. Each of the officers and employees referred to in paragraph 1(b), 1(c) and 1(d) of this Order authorized to issue summonses, is delegated the authority under 26 CFR 301.7602–1(b) to designate any other officer or employee of the Internal Revenue Service referred to in paragraph 4(b) of this Order, as the individual before whom a person summoned pursuant to Section 7602 of the Internal Revenue Code shall appear. Any such other officer or employee of the Internal Revenue Service when so designated in a summons is authorized to take testimony under oath of the person summoned and to received and examine books, papers, records or other data produced in compliance with the summons.

3. Internal Security Inspectors are delegated the authority under 26 CFR 301.7603–1 to serve summonses issued in accordance with this Order by any of the officers and employees of the Inspection Service referred to in paragraphs 1(b)(1) and 1(c)(1) of this Order even though Internal Security

Inspectors do not have the authority to issue summonses.

4(a). The authorities granted to the Commissioner of Internal Revenue by 26 CFR 301.7602–1(a), and 301.7605–1(a) to examine books, papers, records or other data, to take testimony under oath and to set the time and place of examination are delegated to the officers and employees of the Internal Revenue Service specified in paragraphs 4(b), and 4(c), and 4(d) of this Order and subject to the limitations stated in paragraphs 4(c) and 6 of this Order.

(b) General Designations.

(1) Inspection: Assistant Commissioner; Director, Internal Security Division; Director, Internal Audit Division; Regional Inspectors; Internal Auditors; and Internal Security Inspectors.

(2) District Criminal Investigation: Chief and Assistant Chief of Division; Chiefs of Branches; Group Managers; and Special Agents.

(3) International Operations: Director; Assistant Director; Chiefs of Divisions and Branches; Special Agents; Case Managers; Group Managers; Internal Revenue Agents; Attorneys, Estate Tax; Estate Tax Examiners; Revenue Service and Assistant Revenue Service Representatives; Tax Auditors; and Revenue Officers.

(4) District Collection Activity: Chief and Assistant Chief of Division; Chiefs of Field Branches and Office Branches; Chiefs, Special Procedures Staffs; Chiefs, Technical and Office Compliance Branches; Chiefs, Collection Section; Chiefs, Technical and Office Compliance Branches and Groups; Group Managers and Revenue Officers.

(5) District Examination: Chief of Division; Chiefs of Examination Sections; Chiefs of Examination Branches; Case Managers; Group Managers; Internal Revenue Agents; Tax Auditors; Attorneys, Estate Tax; and Estate Tax Examiners.

(6) District Employee Plans and Exempt Organizations: Chief of Division; Chief, Examination Branch; Chief, Technical Staff; Group Managers; Internal Revenue Agents; Tax Law Specialists; and Tax Auditors.

(7) Service Center: Chief, Compliance Division; Chief, Examination Branch; Chief, Collection Branch; Chief, Criminal Investigation Branch; Revenue Agents; Tax Auditors; Tax Examiners in the Correspondence and Processing function; and Special Agents.

(c) District Directors, Service Center Directors, Regional Inspectors, the Chief of Invesitgation Branch, and the Director of International Operations may redelegate the authority under 4(a) of this Order to Law Clerks (Estate Tax), aides or trainees, respectively, for the positions of Revenue Agent, Tax Auditor, Tax Examiner in the Service Center Correspondence and Processing function, Tax Law Specialists, Revenue Officer, Internal Auditor, Internal Security Inspector, Attorney (Estate Tax) and Special Agent, provided that each such Law Clerk (Estate Tax), aide or trainee shall exercise said authority only under the direct supervision, respectively, as applicable of a Revenue Agent, Tax Auditor, Tax Examiner in the Service Center Correspondence and Processing function, Tax Law Specialist, Revenue Officer Special Agent, Internal Auditory, Internal Security Inspector or Attorney (Estate Tax).

(d) District Directors may redelegate the authority under 4(a) of this Order to Revenue Representatives and Office Collection Representatives.

5. Under the authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7622–1, the officers and employees of the Internal Revenue Service referred to in paragraphs 1(b), 1(c), 1(d), and 4(b) and 4(c) of this Order are designated to administer oaths and affirmations and to certify to such papers as may be necessary under the internal revenue laws and regulations *except* that the authority to certify shall not be construed as applying to those papers or documents the certification of which is authorized by separate order or directive. Revenue Representatives and Office Collection Representatives referred to in paragraph 4(d) of the Order are not designated to administer oaths or to perform the other functions mentioned in this paragraph, except that Revenue Representatives are authorized to certify the method and manner of service, and the method and manner of giving notice, when performing the functions and duties contained in paragraph 1(f) of this order.

6. The authority delegated herein may not be redelegated except as provided in paragraphs 4(c) and 4(d).

7. This Order supersedes Delegation Order No. 4 (Rev. 8), issued April 16, 1979.

Date of issued: June 27, 1979.

Effective date: June 27, 1979.

Jerome Kurtz,

Commissioner.

[FR Doc. 79-20376 Filed 6-29-79; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

[Treasury Directive 90, Section 09.A, Transmittal No. 186]

Processing Losses in Refining Operations

June 21, 1979.

1. *Purpose.* This directive prescribes the limits on the processing losses allowed in the gold and silver refining operations of the Bureau of the Mint.

2. *Scope.* The provisions of this directive are applicable to the Bureau of the Mint and the Bureau of Government Financial Operations.

3. *Authority.* Section 207 of the Coinage Act of 1965 (31 U.S.C. 355), authorizes the Secretary of the Treasury to establish limitations on the necessary wastage allowance for the melting and refining operations of the Bureau of the Mint.

4. *Determination of processing losses.* Based on technological studies and surveys conducted by the Mint, it is determined that a limit of nine hundred fine troy ounces of gold loss per one million fine troy ounces of gold refined represents an acceptable limit on the processing losses incurred by the Mint. It is similarly determined that the limit of fifteen hundred fine troy ounces of silver loss per one million fine troy ounces of silver refined is an acceptable limit on the processing losses incurred by the Mint. Within these limits, bona fide industrial losses sustained by the Bureau of the Mint in its refining operations will not be charged against the appropriation of the Mint but will represent a reduction in the monetary asssets of the United States Government.

5. *Annual re-evaluation.* After each annual settlement, the Bureau of the Mint will re-evaluate the limits and report to the Under Secretary the results of its findings together with any recommended change in the limits.

6. *Office of primary interest.* Office of Technology, Bureau of the Mint.

Robert Carswell,

Deputy Secretary.

[FR Doc. 79-20302 Filed 6-29-79; 8:45 am]

BILLING CODE 4810-25-M

Spun Acrylic Yarn From Italy; Antidumping Proceeding Notice

AGENCY: U.S Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping

investigation is being initiated for the purpose of determining whether imports of spun acrylic yarn from Italy are being, or are likely to be, sold at less than fair value within the meaning of the antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market or the constructed value.

EFFECTIVE DATE: July 2, 1979.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5492).

SUPPLEMENTARY INFORMATION: On May 21, 1979, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel representing the American Yarn Spinners Association, Gastonia, North Carolina, alleging that the subject merchandise from Italy 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 *et seq.)* ("the Act").

For purposes of this investigation, the term "spun acrylic yarn" means spun yarn of acrylic, provided for in item 310.50, Tariff Schedules of the United States.

Pricing information was supplied by petitioner for yarn sold to the United States and to the Italian home market which indicates that there may be less than fair value margins of as much as 52 percent. The petitioner has also supplied information pursuant to section 205(b) of the Act (19 U.S.C. 164(b)), alleging that sales in the home market may be below the cost of production. Petitioner derived a constructed value for spun acrylic yarn produced in Italy and, in comparison with a representative export price to the United States, arrived at an alleged less than fair value margin of 66 percent. Since petitioner has presented sufficient evidence to support the claim of below-cost sales, the investigation will include not only price-to-price comparisons but will also seek to determine (1) whether there have been sales made in the home market at less than the cost of production over an extended period of time and in substantial quantities and (2) whether such sales were not at prices which permit recovery of all costs within a resasonable period of time in the normal course of trade. If there have been such sales, those sales will be disregarded in the determination of foreign market value. If insufficient sales in the home market or to third countries remain at not less than the cost of production, then the constructed value will be employed as the basis of fair value.

There is evidence on record concerning injury or likelihood of injury to an industry in the United States that produces spun acrylic yarns. This information indicates that imports of spun acrylic yarns from Italy are underselling domestic spun acrylic yarn by margins of up to 28 percent, which is fully accounted for by the alleged dumping margins. Imports of spun acrylic yarn from Italy have increased in both absolute and relative terms.

In addition, domestic production, capacity utilization and sales, which had declined from 1973 to 1976 but had begun to recover in 1976, have failed to continue to increase with increased domestic demand. Furthermore, petitioner's profitability in the production of spun acrylic yarn has failed to improve and employment in the petitioner's plants has been affected by lost sales.

Having conducted a summary investigation as required by § 153.29, Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an injury to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is being published pursuant to § 153.30, Customs Regulations (19 CFR 153.30).

Robert H. Mundheim,

General Counsel of the Treasury.

June 25, 1979.

[FR Doc. 79–20360 Filed 6–29–79; 8:45 am]

BILLING CODE 4810–22–M

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1954, the Department of the treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954). This list is the same as the list published in the April 2, 1979, **Federal Register.**

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954). Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, Yemen Arab Republic, Yemen, Peoples democratic Republic of.

Dated June 28, 1979.

Donald C. Lubick,

Assistant Secretary (Tax Policy).

[FR Doc. 79–20512 Filed 6–29–79; 8:45 am]

BILLING CODE 4810–25–M

INTERSTATE COMMERCE COMMISSION

[Notice No. 100]

Assignment of Hearings

June 25, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 117815 (Sub-301F), Pulley Freight Lines, Inc., now assigned for continued hearing on July 24, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

No. MC 139495 (Sub-394F), National Carriers, Inc., now assigned for hearing on July 25, 1979 (3 days), at San Francisco, CA, and will be held in Room 510, 5th Floor, 211 Main St.

MC–C–10159, International Brotherhood of Teamster Chauffeurs, Warehousemen & Helpers of America v. Ringsby Truck Lines, Inc., now assigned for continued hearing on July 10, 1979 (3 days), at Denver, CO, in a hearing room to be later designated.

MC 263 (Sub-226F), Garrett Freightlines, Inc., now assigned for continued hearing on July 10, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 134755 (Sub-160F), Charter Express, Inc., now assigned for hearing on July 25, 1979 (1 day), at Cleveland, Ohio and will be held in Room 604, Lakewood Center, North Office Tower, 14600 Detroit Avenue.

MC 14215 (Sub-18F), Smith Trucking Service, Inc., now assigned for hearing on July 26, 1979 (2 days), at Cleveland, Ohio and will be held in Room 604, Lakewood Center, North Office Tower, 14600 Detroit Avenue.

MC 59457 (Sub-38F), Sorenson Transportation Company, Inc., and MC 107615 (Sub-14F), Untco, Inc., now assigned for continued hearing on July 9, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 140247 (Sub-2F), Allstate Charter Lines, Inc., now assigned for hearing on July 23, 1979 at San Francisco, California, is canceled and application dismissed.

MC 124151 (Sub-8F), Vanguard Transportation, Inc., now assigned for hearing on July 10, 1979 at NY New York is canceled and reassigned to Cleveland, Ohio.

MC 123048 (Sub-418F), Diamond Transportation System, Inc., now assigned for pre-hearing conference on July 18, 1979 at Washington, DC is canceled and transfered to Modified Procedure.

MC 109633 (Sub-38F), Arbet Truck Lines, Inc., now assigned for hearing on July 26, 1979 at Chicago, Illinois is canceled and transferred to Modified Procedure.

MC 41406 (Sub-68F), Artim Transportation System, Inc., now assigned for continued hearing on June 25, 1979 at the Offices of the Interstate Commerce Commission, Washington, D.C.

H. G. Homme, Jr.,

Secretary.

[FR Doc 79-20251 Filed 6-29-79; 8:45 am]

BILLING CODE 7035-01-M

Applications For Relief Under 49 U.S.C. 10726

June 26, 1979.

These applications for long-and-short-haul or aggregate-of-intermediates relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before July 17, 1979.

Long-and-Short-Haul

FSA No. 43713, Trans-Continental Freight Bureau, Agent's No. 538, rates on iron or steel channels and coiled rods, from Minnequa, Colo., to stations in Idaho, Oregon and Washington. Rates to be published in its Tariff ICC TCFB 3001. Grounds for relief—motor carrier competition.

Aggregate-of-Intermediates

FSA No. 43714, Trans-Continental Freight Bureau, Agent's No. 539, rates on iron or steel channels and coiled rods, from Minnequa, Colo., to stations in Idaho, Oregon and Washington. Rates to be published in its Tariff ICC TCFB 3001. Grounds for relief—maintenance of depressed rates published to meet motor carrier competition without use of such rates as factors in constructing combination rates.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-20254 Filed 6-29-79; 8:45 am]

BILLING CODE 7035-01-M

Applications for Relief Under 49 U.S.C. 10726

June 26, 1979.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of this notice.

FSA No. 43708, Southwestern Freight Bureau, Agent's No. B-8, rates on carbolic acid (phenol), in tank carloads, from Stations in Texas and Allemania, La., to Odenton, Md. Rates are published in Supp. 75 to its Tariff ICC SWFB 3038-E, and Supp. 54 to ICC SWFB 3355-D, to become effective July 16, 1979. Grounds for relief—market competition.

FSA No. 43710, Traffic Executive Association-Eastern Railroads, Agent's No. ER 3078, rates on newsprint paper, in carloads, from Quebec, P.Q., Canada, to Alexandria and Springfield, Va. Rates are published in Supp. 59 to Canadian Freight Association Tariff ICC CFAE 4660 (P. J. Lavallee, Agent), to become effective July 27, 1979. Grounds for relief—water and motor carrier competition.

FSA No. 43711, Nordana Line No. 1, joint rail/water container rates on general commodities, from railroad termini at Los Angeles, Oakland, and Richmond, Calif.; Portland, Oreg., and Seattle, Wash., to Ports in the Mediterranean via U.S. Atlantic and Gulf Coast ports of interchange. Rates are published in Nordana Line, Eastbound Intermodal Freight Tariff ICC NDLU No. 300, F.M.C. No. 23, effective July 22, 1979. Grounds for relief—water competition.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-20253 Filed 6-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-7 (Sub-No. 51)]

The Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Abandonment Between Kirkland and DeKalb in DeKalb County, IL; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 (formerly Section 1a(6)(a) of the Interstate Commerce Act) that by a decision entered on December 18, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979); *provided, however*, that within 120 days of the effective date of this decision, the Milwaukee Road shall successfully negotiate with Chicago and North Western Transportation Company (C&NW) or some other responsible organization or person for the continuation of rail service to those customers of applicant located in DeKalb in the same manner as they were served by applicant prior to its embargo of the line on December 5, 1977, and shall furnish evidence of such completed negotiations to the Commission; and *provided, further*, that applicant shall keep intact all of the right-of-way underlying the track, except that portion of the right-of-way as may be conveyed or transferred in connection with fulfilling the requirements of the first proviso described above, for a period of 120 days from the effective date of the certificate in this proceeding, to permit any government agency or other interested party to acquire all or any portion of the property for public use, the present and future convenience and necessity permit the abandonment by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company of a branch line of railroad. The line extends from railroad milepost 20.5 near Kirkland, IL, to the end of the branch at milepost 34.83 near DeKalb, IL, and all within DeKalb County, IL. A certificate of abandonment will be issued to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice (August 1, 1979), unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-mentioned decision.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-20256 Filed 6-29-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

June 26, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before July 17, 1979. FSA No. 43709, Karlander (Australia) Pty. Limited No. 6, intermodal rates on general commodites in containers from ports in the South Pacific to rail carriers' terminals on the United States Atlantic and Gulf Coasts, by way of Pacific Coast rail-ocean interchange points in its Tariff ICC KRPU 300, FMC No. 20, effective July 19, 1979. Grounds for relief—water competition.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[Docket No. AB-2 (Sub-No. 14)]

Louisville & Nashville Railroad Co. Abandonment Between Paris and Maysville, Ky.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. § 10903 (formerly Section 1a(6)(a) of the Interstate Commerce Act) that by a decision entered on November 9, 1978, and the decision of the Commission, Division 2, served May 25, 1979, as modified, adopted the decision of the Administration Law Judge, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Louisville and Nashville Railroad Company of its branch line from milepost 115.0 near Paris, KY, to milepost 164.6 near Maysville, KY, a distance of 49.6 miles. The line is located in Burbon, Nicholas, Fleming, and Mason Counties, KY. A certificate of abandonment will be issued to the Louisville and Nashville Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice (August 1, 1979), unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line; or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandoment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquistion of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above referenced decision.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-20255 Filed 6-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 97]

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication not later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as othewise noted.

Motor Carriers of Property

Caption Summary

MC 1977 (Sub-35TA), Filed May 30, 1979. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5231 Monroe Street, Denver, CO 80216. Representative: Leslie R. Kehl, JONES, MEIKLEJOHN, KEHL & LYONS, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *common carrier*, over *regular routes*, transporting: *general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which, because of size or weight, require special handling or use of special equipment)*: (1) Between Denver, CO and its commercial zone, on the one hand, and, on the other, Spokane, WA and its commercial zone, serving no intermediate points; From Denver north over I–25 to Junction I–90, then westerly over I–90 to Spokane and return over same route; (2) Between Salt Lake City, UT and its commercial zone, on the one hand, and Spokane, WA and its commercial zone on the other, serving no intermediate points; from Salt Lake City, UT north over I–15 to Junction I–90, then westerly over I–90 to Spokane and return; (3) Between Salt Lake City, UT and its commercial zone, on the one hand, and Spokane, WA and its commercial zone, on the other, serving the intermediate point of Pasco, WA and its commercial zone; from Salt Lake City and its commercial zone north over I–15 to Junction I–80 N, then over I–80 N to Junction U.S. 395, thence north via U.S. 395 to Junction I–90, thence northeasterly over I—90 to Spokane and return for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPERS: There are approximately 38 statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. *Interlining sought at Denver, CO, Salt Lake City, UT and Spokane, WA; tacking sought at Denver and Salt Lake City.* Send protests to: Roger Buchanan, D/S, ICC, 492 U.S. Customs House, Denver, CO 80202.

MC 13087 (Sub-51 TA), filed May 14, 1979. Applicant: STOCKBERGER TRANSFER & STORAGE, INC., 524 Second St., S.W., Mason City, IA 50401. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Canned or preserved foodstuffs* from the facilities of H. J. Heinz Co. at Muscatine and Iowa City, IA to points in WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 27817 (Sub-158 TA), filed May 4, 1979. Applicant: H. C. GABLER, INC., R. D. No. 3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian Graf, 407 N. Front St., Harrisburg, PA 17101. *Foodstuffs, canned or bottled (except frozen foods and comodities in bulk)*, from the facilities of William Underwood Co. at or near Portland, ME and Boston, MA to points in the states of MD, NJ, NY, NC, OH, PA, VA, WV, DC and Detroit, MI for 180 days. Restricted to traffic originating at and destined to the above-named origins and destinations. Supporting shipper(s): Wm. Underwood Co., One Red Devil Lane, Westwood, MA 02090. Send protests to: I.C.C., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 42537 (Sub-62 TA), filed April 26, 1979. Applicant: Cassens Transport Company, P.O. Box 468, Edwardsville, IL 62025. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. *Foreign automobiles and trucks*, in secondary movements, in truckaway service from Naperville and Aurora, IL to Overland Park, KS and points in WI and MN. Supporting shipper(s): Nissan Motor Corporation, U.S.A., 18501 South Figueroa, Carson, CA 90247. Send protests to: Charles D. Little, D/S, ICC, Room 414 Leland Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 51146 (Sub-693 TA), filed May 17, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John Patterson, 2480 E. Commercial Blvd., Ft. Lauderdale, FL 33308. *Automotive mufflers, tailpipes, and automotive parts* from Toledo, OH to Milwaukee, Green Bay, and LaCrosse, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wisconsin Tool, Inc., 620 S. 84 St., P.O. Box 14576, Milwaukee, WI 53214. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-694TA), filed May 18, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John Patterson, 2480 E. Commerical Boulevard, Ft. Lauderdale, FL 33308. *Non-hazardous chemicals, in packages and equipment, materials, and supplies used in the packaging and distribution of non-hazardous chemicals* from Detroit and Romulus, MI to points in Juneau County, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s); Juneau Packaging Corp., Industrial Park West, Mauston, WI 53948. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-695TA), filed May 18, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John Patterson, 2480 E. Commerical Boulevard, Ft. Lauderdale, FL 33308. *Rubber tires and tubes* (1) from Akron, OH; Charlotte, NC; Mayfield, KY; Mt. Vernon and Elk Grove Village, IL; and Memphis, TN to Milwaukee, WI; (2) from Charlotte, NC to Pine Brook, NJ; and (3) from Akron, OH; Charlotte, NC; Mayfield, KY; and Memphis, TN to Chicago and Waukegan, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): J & J Distributing Co., 513 W. Dean Court, Milwaukee, WI 53217. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-696TA), filed May 24, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John Patterson, 2480 E. Commerical Boulevard, Ft. Lauderdale, FL 33308. *Plastic containers and equipment, materials and supplies used in the manufacture and distribution thereof* (except in bulk) from Kentwood, MI to Lexington, Louisville, and Elizabethtown, KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Continental Group, Plastic Beverage Bottles, 4 Landmark Square, Suite 130, Stamford, CT 06901. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 59957 (Sub-57TA), filed May 17, 1979. Applicant: MOTOR FREIGHT EXPRESS, INC., P.O. Box 1029, York, PA 17405. Representative: Walter Neugebauer (same address as applicant). *Common carrier, regular routes: General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment*, serving points in OH, as off-route points in connection with carrier's authorized regular route operations for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 105 supporting shipper statements attached to this application which may be examined at the I.C.C. in

Washington, D.C. or copies of which may be examined in the field office named below. Send protests to : I.C.C. 101 N. 7th St. Rm. 620, Phila., PA 19106.

MC 61977 (Sub-18TA), filed May 21, 1979. Applicant: ZERKLE TRUCKING COMPANY, 2400 Eighth Ave., Huntington, WV 25703. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. (1) *Iron and steel articles, zinc and lead and construction materials, supplies and equipment,* from Kokomo, IN to points in TN east of I–75, points in OH south of I–70 and east of I–75, points in KY east of I–75 and Louisville, KY, points in VA and WV; and (2) *materials, supplies and equipment* used in the manufacture of commodities named in (1) above, from the destination area to the point of origin, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Penn-Dixie Steel Corporation, 1401 East Hofer Street, Kokomo, IN 46901. Send protests to: J. A. Niggemyer, DS, 416 Old P.O. Building, Wheeling, WV 26003.

MC 71296 (Sub-5TA), filed May 15, 1979. Applicant: FORT TRANSPORTATION & SERVICE CO., INC., 1600 Janesville Ave., Ft. Atkinson, WI 53538. Representative: Michael Wyngaard, 150 E. Gilman Street, Madison, WI 53703. Common carrier; regular route; *General commodities,* except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Fort Atkinson, WI and Rockford, IL: (1) From Fort Atkinson, WI over W.S. Hwy 26 to its junction with I–90 at or near Janesville, WI, and then over I–90 to its junction with U.S. Hwy. 20 at or near Rockford, IL and then over U.S. Hwy. 20 (also over U.S. Hwy. 20 BR) to Rockford, IL and return over the same route, serving no intermediate points; (2) From Fort Atkinson, WI over W.S. Hwy. 26 to its junction with U.S. Hwy. 51 at or near Janesville, WI, then over U.S. Hwy. 51 to Rockford, IL and return over the same route, serving no intermediate points; Between Stoughton, WI and Rockford, IL: (1) From Stoughton, WI over U.S. Hwy. 51 to Rockford, IL, and return over the same route, serving no intermediate points; (2) From Stoughton, WI over U.S. Hwy. 51 to its junction with I–90 near Albion, WI, then over I–90 to its junction with U.S. Hwy. 20 at or near Rockford, IL and then over U.S. Hwy. 20 (also over U.S. Hwy. 20BR) to Rockford, IL and return over the same route, serving no intermediate points, restricted to transportation of shipments received from or delivered to connecting carriers at Rockford, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 17 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 85557 (Sub-4TA), filed April 30, 1979. Applicant: PAUL MUSSLEWHITE TRUCKING COMPANY, 1700 10th, Levelland, TX 79336. Representative: Paul Musslewhite, (same as above). *Machinery, equipment, materials, and supplies* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts and, *machinery, equipment, materials and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, except the stringing or pickup of pipe in connection with main pipe lines. *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between Andrews, Bailey, Cochran, Crane, Ector, Fisher, Gaines, Hockley, Howard, Lamb, Loving, Midland, Mitchell, Nolan, Parmer, Pecos, Reeves, Terry, Upton, Ward, Winkler, and Yoakum Counties, TX and Quay, Curry, and Roosevelt Counties, NM and points in NM on and North of Interstate 40, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper(s): Sitton Drilling Company, 503 Lubbock National Bank Building, Lubbock, TX. Send protests to: Martha Powell, TA, ICC, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 89716 (Sub-54TA), filed May 24, 1979. Applicant: DICK JONES TRUCKING, P.O. Box 965, Powell, WY 82435. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Building, Denver, CO 80203. (1) *Buildings; building equipment, materials and supplies;* (2) *lumber, lumber mill products, wood products;* (3) *contractors' equipment, materials and supplies;* (4) *fencing equipment, materials and supplies,* Between points in CO, ID, MT, NE, ND, SD, UT, WA and WY, for 180 days. Supporting shipper(s): There are (17) shippers. Their statements may be examined at the office shown below or at Headquarters. Send protests to: Paul A. Naughton, DS, ICC, Room 105, Federal Building, 111 South Wolcott, Casper, WY 82601.

MC 100666 (Sub-473TA), filed May 17, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular routes transporting *Such commodities as are dealt in or used by Agricultural equipment, industrial equipment and lawn and liesure product dealers (except commodities in bulk)* between the facilities of Deere and Company in Jackson County, MO on the one hand, and on the other points in KS and OK, for 180 days. Applicant has filed an underlying ETA for 90 days. Supporting Shipper(s): John Deere Company, 3210 East 85th Street, Kansas City, MO 64132. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 111856 (Sub-7TA), filed May 1, 1979. Applicant: CHOCTAW TRANPORT, INC., 800 Bay Bridge Road, Prichard, AL 36610. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. *General commodities:* (except dangerous explosives, household goods as defined in practices of motor common carriers of household goods, 17 MCC 467, commodities in bulk, and those requiring special equipment). (1) Between Mobile, Alabama, and York, Alabama: From Mobile over U.S. Hwy. 43, to the intersection of U.S. Hwy. 43 with AL. State Hwy. 56, at or near Wagarville, Alabama, then over AL. State Hwy. 56 to the intersection of AL State Hwy. 56 with AL. State Hwy. 17, at or near Chatam, AL., then over AL. State Hwy. 17 to York, AL., and return over the same route, serving all intermediate points and serving as off-route points Bladon Springs, Frankville, Kenton, and St. Stephens, Alabama. (2) Between Mobile, Alabama, and Chatam, Alabama: From Mobile over U.S. Hwy. 45 to the intersection of U.S. Hwy. 45 with AL. State Hwy. 17, at or near Deer Park, AL., then over AL. State Hwy. 17 to Chatam, Al., and return over the same route. (3) Between Butler, Alabama, and Meridian, Mississippi: From Butler over AL. State Hwy. 10 to its intersection

with Ms. State Hwy. 19 at the AL-MS State Line, then over MS. State Hwy. 19 to Meridian and return over the same route, serving all intermediate points and serving the off-route points of Lisman and Riderwood, AL. Applicant intends to interline with other carriers at Mobile, AL and Meridian, MS. For 180 days. Supporting Shipper(s): "There are 23 Supporting Shippers, the names of which can be examined at the Birmingham Field Office or Headquarters."Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 112617 (Sub-434TA), filed April 27, 1979. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Representative: Charles R. Dunford, (as above). *Petroleum and petroleum products,* in bulk, in tank vehicles, from Amoco Chemicals plantsite at Wood River, IL, to points in AL, AR, FL, GA, IN, KY, LA, MA, MD, MI, MO, MS, NJ, NY, OH, PA, RI, SC, TX, VA AND WV. Supporting Shipper(s): Thomas N. Russell, Supervisor (S/N Truck), Acomo Chemicals Corporation, 200 E. Randolph Drive, Chicago, IL 60601. Send protests to: Linda H. Sypher, 426 Post Office Building, Louisville, Ky. 40202.

MC 112617 (Sub-435TA), filed April 27, 1979. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Representative: Charles R. Dunford, Vice President—Traffic. *Lubricating Oil,* in bulk, in tank vehicles, from McCook, IL to Points in KY and TN Supporting Shipper(s): E. C. Ross, Transportation Manager, Motor Oils Refining Co., 7601 W. 47th St., McCook, IL 60525. Send protests to: Linda H. Sypher, D/S, ICC, 426 Post Office Building, Louisville, Ky. 40202.

MC 113646 (Sub-19TA), filed May 14, 1979. Applicant: JEFFERSON TRUCKING COMPANY, P.O. Box 17, National City, MI 48748. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI. *Contract carrier:* irregular routes: *Gypsum products, building materials, and materials and equipment* used in the manufacture and distribution thereof (except commodities in bulk); between National City, MI on the one hand, and on the other, points in KS, NE, OK, ND and SD. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gold Bond Building Products, 2001 Rexford Road, Charlotte, NC 28211. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 114457 (Sub-515TA), filed May 24, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, (same address as applicant). *Sugar (except in bulk)* from Moorhead, East Grand Forks, Crookston, MN and Drayton, ND to points in AR, CO, KS, NE, NM, OK and TX, for 180 days. Supporting shipper(s): American Crystal Sugar Company, 101 North Third Street, Moorhead, MN 56560. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 114457 (Sub-516TA), filed May 24, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, (same address as applicant). *Container closures* from the facilities of the Continental Group, Inc., at or near Atlanta and Perry, GA to St. Paul, MN and is commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Can Co.—U.S.A., 5745 East River Road, Chicago, IL 60631. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 116457 (Sub-44TA), filed May 24, 1979. Applicant: GENERAL TRANSPORTATION, INC., 1804 S. 27th Avenue, Phoenix, AZ 85005. Representative: D. Parker Crosby, 1710 S. 27th Avenue, Phoenix, AZ 85005. *Foam board insulation, insulated foam board panels and insulation foam,* from Salt Lake City, UT and its commercial zone to CA, AZ, NM, CO, WA, OR, WY, MT and NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Apache Foam Products Co., 20 E. Union Ave., N. Salt Lake, UT 84054. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 119226 (Sub-117TA), filed April 9, 1979. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, IN 46227. Representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. *Liquid Chemicals, in bulk, in tank vehicles,* between the plantsite of International Minerals & Chemical Corp., Terre Haute, IN on the one, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, KA, LA, ME, MA, MN, MS, NE, NH, NJ, NY, NC, ND, OK, PA, MD, RI, SC, SD, TN, TX, VT, VA, and WV for 180 days. Supporting Shipper: International Minerals & Chemical Corp., 421 E. Hawley St., Mundelein, IL 60060. Send Protests tO: Beverly J. Williams, TA, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 119777 (Sub-378TA), filed April 25, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85-East (P.O. Drawer L), Madisonville, Ky. 42431. Representative: Carl U. Hurst, Attorney (as above). Iron and Steel Articles, from the facilities of Butler Manufacturing Company at or near Kansas City, MO, to points in AL, AR, DE, DC, FL, GA, KY, LA, MD, NC, SC, MS, NJ, PA, TN, VA, and WV. Supporting Shipper(s): James J. Twaddell, Plant Traffic Manager, Butler Manufacturing Company, 7400 East 13th Street, Kansas City, MO 64126. Send protests to: Linda H. Sypher, 426 Post Office Building, Louisville, Ky. 40202.

MC 115826 (Sub-472TA), filed May 24, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Canned goods,* from Cade, Lozes, LA and their commercial zones to points in CA, UT, CO, NV and AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Nobel, Inc., 1101 West 48th Avenue, Denver, CO 80221. Send protests to: D/S Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 115826 (Sub-473TA), filed May 10, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Foodstuffs,* from Dallas and Houston, TX and their commercial zones to Limon, Denver, Grand Junction, CO and their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): United Food Service, Inc., 3770 East 40th Avenue, Denver, CO 80205. Send protests to: D/S Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 124887 (Sub-83TA), filed May 29, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Iron and steel articles,* from Aberdeen, NC, to points in AL, FL, GA, LA, MS, SC, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carolina Galvanizing, Rt. 1, Box 60, Aberdeen, NC 28315. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124887 (Sub-84TA), filed May 29, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *(1) Hydraulic lifts and petroleum metering devices and*

materials and supplies used in the installation thereof, and (2) meterials used in the manufacture of hydraulic lifts and petroleum metering devices; (1) from the facilities of Gilbarco, Inc. at or near Greensboro, NC to points in AL, FL, GA, LA, MS, SC, TN, TX, and VA, and (2) from points in AL, FL, GA, LA, MS, SC, TN, TX, and VA, to the facilities of Gilbarco, Inc. at or near Greensboro, NC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gilbarco, Inc., 7300 Friendly Road, Greensboro, NC 27420. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124887 (Sub-86TA), filed May 17, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL *Chemicals and fertilizer and materials used in the manufacture of fertilizer, not in bulk* from points in the United States in and east of ND, SD, NE, KS, OK, and TX, to Ozark, AL and Walnut Ridge, AR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fritt Industries, P.O. Box 850, Ozark, AL 36360. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 125687 (Sub-18TA), filed May 9, 1979. Applicant: EASTERN STATES TRANSPORTATION PA, INC., 1060 Fayette St., York PA 17405. Representative: Jeremy Kahn, 1511 K St., NW., Suite 733 Investment Bldg., Washington, DC 20005. *Malt beverages,* from facilities of Miller Brewing Co. in Onondaga & Oswego Counties, NY to points in CT, DE, MD, MA, ME, NH, NJ, NY, PA, RI, VT, DC and *empty malt beverage containers* on return, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miller Brewing Co., 3939 W. Highland Blvd., Milwaukee, WI 53208. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 126276 (Sub-203TA), filed May 11, 1979. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, IL 60513. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. *Contract carrier:* irregular route: *Paper and paper products, plastic products, and products produced and distributed by manufacturers and converters of paper and paper products* (except commodities in bulk) from Chicago, IL to Louisville, KY for 180 days. An underlying ETA was granted for 90 days authority, for the account of The Continental Group, Inc. Supporting shipper(s): The Continental Group, Inc., 800 E. Northwest Highway, Palatine, IL 60067. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 133566 (Sub-136TA), filed April 20, 1979. Applicant: GANGLOFF & DOWNHAM TRUCKING COMPANY, INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, One World Trade Center, Suite 4959, New York, NY 10048. *Pickles, in plastic or glass containers,* from the facilities of Pilgram Farms Inc. at Plymouth, IN to points in NY, NJ, MA, PA and MD for 180 days. Supporting shipper(s): Pilgram Farms, Inc., 1430 Western Avenue, Plymouth, IN 46563. Send protests to: Beverly J. Williams, ICC, 46 E. Ohio Street, Room 429, Indianapolis, IN 46204.

MC 134286 (Sub-110TA), filed May 17, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as above). *Dated magazine parts (except in bulk),* from Brookfield WI to Old Saybrook, CT, and all points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McGraw-Hill Publications, a Division of McGraw-Hill, Inc., 1221 Avenue of the Americas, New York, NY 10020. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 134286 (Sub-111TA), filed May 16, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). *Chemicals, starch, and materials, equipment and supplies used in the manufacture and distribution of chemicals and starch, except in bulk,* from the facilities of National Starch and Chemical Company, located at or near (1) Meredosia, IL to points in CT, DE, MA, MN, MD, NJ, NY, PA, and VA and (2) Indianapolis, IN, to points in IA, KS, NE, MO, and CO, for 180 days. Restricted to the transportation of traffic originating at the above-named origins and destined to the above-named destinations. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Starch & Chemical Corporation, P.O. Box 6500, Bridgewater, NJ. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 134286 (Sub-112TA), filed May 16, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert, (same address as applicant). *Animal feed (except in bulk),* from the facilities of Kal Kan Foods at or near Mattoon, IL, to points in CO, SD, NE, KS, MN, IA, IN, MI, OH, MO, GA, NY, NJ, MA, and CT, for 180 days. Supporting shipper(s): Kal Kan Foods, Incorporated, P.O. Box 28146, Columbus, OH 43228. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 135616 (Sub-20TA), filed May 7, 1979. Applicant: PERRYSBURG TRUCKING CO., INC., 24892 Thompson Rd. Perrysburg, OH 43551. Representative: Michael Bromley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Contract carrier,* irregular routes: *Flat glass, crated,* in open-top trailers, from the facilities of PPG Industries, Inc., at or near Cumberland, MD, to the facilites of PPG Industries, Inc., at or near Mt. Holly Springs, PA for 180 days. Supporting shipper(s): PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: I.C.C., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 135797 (Sub-215TA), filed May 15, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). *New furniture, furniture parts* and *materials* used in the manufacture of furniture, from Samsonite Corp. Furniture Division of Fort Smith, AR and Murfreesboro, TN, to points in and east of ND, SD, NE, KS, OK and TX, for 180 days. Supporting shipper(s): Samsonite Corp., Furniture Div., Samsonite Blvd., Murfreesboro, TN 37130. Send protests to: William H. Land, Jr., 3108 Federal Building, 700 West Capitol, Little Rock, Arkansas 72201.

MC 135797 (Sub-216TA), filed May 16, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). *Such commodities* as are dealt in by discount, grocery and variety stores (except in bulk) from points in IA, LA, MN, MO, TX and states east thereof to Harrison, AR and New Orleans, LA, restricted to shipments destined to the facilities of Mass Merchandisers, Inc., for 180 days. Supporting shipper(s): Mass Merchandisers, Inc., P.O. Box 790, Harrison, AR 72601. Send protests to: William H. Land, Jr., 3108 Federal Building, 700 West Capitol, Little Rock, AR 72201.

MC 135867 (Sub-6TA), filed May 15, 1979. Applicant: H.T.L., INC., P.O. Box 112, Fairfield, AL 35064. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Contract, Irregular: *(1) Pipe, fittings, valves, fire hydrants and castings and materials and supplies used in the installation thereof* from the

facilities of the American Cast Iron Pipe Company at Birmingham, AL to points in the United States in and east of ND, SD, WY, CO, and NM (including TX); *(2) Materials and supplies used in the manufacture of commodiies as shown in (1) above,* (except commodities in bulk, in tank vehicles), from points in the United States in and east of ND, SD, WY, CO, and NM (including TX), to the facilities of the American Cast Iron Pipe Co., at Birmingham, AL, restricted to a transportation service to be performed, under a continuing contract or contracts with American Cast Iron Pipe Company at Birmingham, AL, for 180 days. Supporting shipper(s): American Cast Iron Pipe Company, 2930 North 16th Street, Birmingham, AL 35207. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 136877 (Sub-5TA), filed May 9, 1979. Applicant: P & G MOTOR EXPRESS, INC., 601 Collinsville Avenue, East St. Louis, IL 62201. Representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Household cleaning, scouring, and washing products, and containers therefore* (except commodities in bulk), (1) From the facilities of Purex Corporation at St. Louis, MO to points in IL; and (2) from Morris, Carol Stream, and Chicago, IL to the facilities of Purex Corporation at St. Louis, MO. Supporting shipper(s): Purex Corporation, 6901 Mekissock, St. Louis, MO 64147. Send protests to: Charles D. Little, ICC, Room 414, 527 East Capitol Avenue, Springfield, IL 62701.

MC 138026 (Sub-19TA), filed May 18, 1979. Applicant: LOGISTICS EXPRESS, INC., Etiwanda & Slover Avenues, Fontana, CA 92335. Representative: David P. Christianson, Knapp, Grossman & Marsh, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. *Liquid oxygen, liquid nitrogen and argon,* from New Orleans, LA to Texarkana, TX; Oklahoma City, OK; and MS, and from Oklahoma City, OK, to Shreveport, LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Airco Industrial Gases, A Division of Airco, Inc., P.O. Box 55429, Houston, TX 77055. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 138736 (Sub-12TA), filed April 25, 1979. Applicant: F B M TRUCKING, INC., Hwy. 54 E. (P.O. Box 513), Fayetteville, GA 30214. Representative: Dorothy V. Meatows (same address as applicant). *Plastic moulded products* from the plantsite of El Mar Plastics, Inc., Carson, CA to Decatur, GA, Greenville, SC, Gastonia, NC, Charlotte, NC, Chapel Hill, NC, Nashville, TN, Dallas, TX, Rye, NY, New York City, NY and return from New York City, NY, Boomton, NJ, Fremont, NE to plantsite of El Mar Plastics, Inc., Carson, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): El Mar Plastics, Inc., 821 Artesia Blvd., Carson, CA. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA.

MC 139317 (Sub-4TA), filed May 29, 1979. Applicant: CHARIOT TRUCKING, INC., 1127 Bellepasi Road, P.O. Box 361, Woodburn, OR 97071. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. Contract, Irregular routes: (1) *Fabricated forms and shapes, fabricated from structural angles, bars, beams, channels, plates and sheets of mild steel, stainless steel and aluminum,* from Tualatin, OR, to points in the United States, for 180 days. (2) *Cast Iron Truck and Trailer Brake Drums* from Tualatin, OR, to Sacramento, San Leandro, Fresno and Los Angeles, CA; Seattle and Spokane, WA; Clearfield and Salt Lake City, UT; Denver, CO; El Paso, TX; Vancouver, Burnaby, Nanaimo and Duncan, B.C., Canada for 180 days. Supporting shipper(s): ASM Industrial Fabricators, Tualatin, OR 97062; Durametal Corporation, Tualatin, OR 97062. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 139787 (Sub-8TA), filed April 12, 1979. Applicant: M & M TRUCKING COMPANY, INC., P.O. Box 1743, Auburn, AL 36830. Representative: Kim G. Meyer, 1200 Gas Light Tower, 235 Peachtree Street, Atlanta, GA 30303. *Crushed stone,* in bulk, in dump trucks, from Troup and Muscogee Counties, GA, to points in AL, for 180 days. Supporting shipper(s): Starr & Sons, Inc., Route 1, Box 61, Auburn, AL 31830; Hooper and McDonald, Inc., P.O. Box 1085, Andalusia, AL 36420; Charles E. Watts, Inc., 501 N. Albert Rains Boulevard, Gadsden, AL 35902; Alabama Asphalt Contractors, Inc., P.O. Box 1003, Montgomery, AL 36102. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 142977 (Sub-2TA), filed April 26, 1979. Applicant: HOOSIER FREIGHT LINES, INC., P.O. Box 16006, Louisville, Ky. 40216. Representative: James K. Stayton, Attorney, Suite 216, Atkinson Square, Louisville, Ky. 40218. General Commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, building and excavating contractor's equipment, mining and road building equipment, and those requiring special equipment), from Louisville, KY, to the following points in the State of Indiana—Bedford, Bloomington, Brownstown, Livonia, Medora, Seymour, Paoli, Orleans, North Vernon, Loogootee, Mitchell, Oolitic, Jasper, Washington, Huntingburg, French Lick, Salem, Campbellsburg, St. Meinrad, Ferdinand, Santa Claus, Vallonia, Crane, Aurora, Lawrenceburg, Versailles, Cannelton, Tell City, West Baden Springs, Odon, Scottsburg, and Indianapolis and its commercial zone; and Cincinnati, OH and its commercial zone. Supporting shipper(s): Nine (9) Supporting Shippers, primarily locating in Louisville. Send protests to: Linda H. Sypher, 426 Post Office Building, Louisville, KY 40202.

Note.—Applicant proposes to interline with other carriers at Louisville, KY, Indianapolis, IN, and Cincinnati, OH.

MC 143127 (Sub-38TA), filed April 25, 1979. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Corn Products (except in bulk),* from the facilities of J. R. Short Milling Co. at or near Kankakee, IL and Mt. Vernon, IN to points in the U.S. in and east of ND, SD, NE, KS, OK and TX. (Restricted to traffic originating at said facilities and destined to said States), for 180 days. No ETA filed. Permanent will be filed. Supporting shipper(s): J. R. Short Milling Co., E. W. Anderson, Gen. Traffic Mgr., 233 S. Wacker Driver—Sears Tower, Chicago, IL 60606. Send protests to: Interstate Commerce Commission, 910 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

MC 143236 (Sub-34TA), filed May 18, 1979. Applicant: WHITE TIGER TRANSPORTATION, INC., 40 Hackensack Avenue, Kearny, NJ 07032. Representative: Elizabeth Eleanor Murphy, 40 Hackensack Avenue, Kearny, NJ 07032. *Swimming pool parts and accessories.* Between the facilities of Hayward Mfg. Co. in or near Elizabeth, NJ and NY, MD, DE, CT, MA, VA, PA & NH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hayward Manufacturing Co., Inc., 900 Fairmount Avenue, Elizabeth, NJ 07207. Send protests to: Robert E. Johnston, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 143267 (Sub-73TA), filed May 1, 1979. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal

A. Jackson, Esq., 1155 15th St. NW, Washington, DC 20005. *Plywood and plywood wall paneling*, from the facilities of Plywood Panels, Inc., at or near Norfolk, VA, to points in CT, MD, NJ, OH, PA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s) Plywood Panels, Inc., P.O. Box 12678, Norfolk, VA 23502. Send protests to: I.C.C., Federal Reserve Bank Bldg., Room 620, 101 N. 7th St., Philadelphia, PA 19106.

MC 143437 (Sub-3TA), filed April 24, 1979. Applicant: J.R.B. Inc., 101 Wheatley Road, Ashland, KY. 41101. Representative: Paul F. Berry, Berry & Spurlock Co., 275 E. State St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting iron and steel and iron and steel articles, and equipment, materials, and supplies used in the manufacture of iron and steel and iron and steel articles, (1) between the facilities of Armco, Inc., at Ashland, KY., on the one hand, and, on the other, points in OH, PA, WV, IN, IL, MI, WI, NY, and TN, and (2) from Greenfield, IN to Washington Court House, OH. Supporting shipper(s): Charles W. Hall, Director of Transportation, Armco, Inc., 703 Curtis Street, Middletown, OH 45043. Send protests to: Linda H. Sypher, 426 Post Office Building, Louisville, KY. 40202.

MC 143656 (Sub-3TA), filed May 7, 1979. Applicant: GOLD LEAF TRUCKING COMPANY, 2927 Retnag Road, Petersburg, VA 23803. Representative: William H. Robinson, Jr., McGuire, Woods & Battle, 1400 Ross Building, Richmond, VA 23219. Contact—irregular: *Lumber* from Petersburg, Richmond, Suffolk, Lawrenceville, Stony Creek, VA to points in DC, MD, DE, NJ, and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Payne & Gunderson Lbr. Co., Inc., P.O. Box 1149, Petersburg, VA 23803. Send protests to: Paul D. Collins, DS, ICC, Room 10—502 Federal Bldg., 400 North 8th St., Richmond, VA 23240.

MC 144117 (Sub-41TA), filed May 21, 1979. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Bernard J. Kompare, Sullivan & Associates, Ltd., 10 S. LaSalle St.—Suite 1600, Chicago, IL 60603. (1) *Optical polishing compound* (except in bulk), from Lake Park, FL to East Lansing, IL and Compton, CA; and (2) *Materials* used in the manufacture of the commodity in (1) above (except in bulk), from Mountain Pass, CA to Lake Park, FL, restricted in (1) and (2) above to traffic originating at the named origins and destined to the named destinations, for 180 days. Supporting shipper(s): Cercoa, Inc., 1365 N. Killian Dr., Lake Park, FL 33403. Send protests to: P. E. Binder, D/S, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 144117 (Sub-42TA), filed May 22, 1979. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy, Park Ridge, IL 60068. *Foodstuffs* (except frozen foods and commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Hershey Chocolate Company at Oakdale, CA to the facilities of Hershey Chocolate at Hershey, PA, restricted to the transportation of traffic originating at the named origin and destined to the named destination, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hershey Chocolate Company, 19 E. Chocolate Ave., Hershey, PA 19033. Send protests to: P. E. Binder, D/S, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 144427 (Sub-1TA), filed May 25, 1979. Applicant: WINSTON COACH CORP., 1605 Sycamore Avenue, Bohemia, NY 11716. Representative: Mr. Sidney J. Leshin, 575 Madison Avenue, New York, NY, 10022. *Contract carrier*, irregular routes: Passengers and their baggage, including musical instruments, between the counties of Queens, Nassau and Suffolk, NY, on the one hand, and points and places in Clifton, East Rutherford, Dream and Bricktown, NJ; Hamden and Bridgeport, CT; Providence, RI; Boston, MA; Carlisle, Scranton, Lewisburg and Hershey, Pa., on the other hand. Supporting shipper(s): L. I. Sunrisers Drum & Bugle Corps, 15 Park Place, Roslyn Heights, NY 11577. Send protests to: Marvin Kampel, D/S, ICC, 26 Federal Plaza, New York, NY 10007.

MC 144606 (Sub-4TA), filed May 21, 1979. Applicant: DUNCAN SALES & LEASING CO., INC., 714 E. Baseline Rd., Buckeye, AZ 85326. Representative: Andrew V. Baylor, 337 E. Elm St., Phoenix, AZ 85012. (1) *Expanded plastic bottles*, from Carson and La Mirada, CA to Phoenix and Tucson, AZ, Albuquerque, NM and El Paso, TX (2) *beverages, non-alcoholic in cans and bottles on pallets, barbeque sauce in cases*, from Long Beach and Los Angeles, CA to Phoenix and Tucson, AZ, Albuquerque, NM and El Paso, TX (3) *plastic articles (expanded styrofoam)*, from Glendale, AZ to City of Industry, CA, for 180 days. Underlying ETAs seek 90 days authority. Supporting shipper(s): Premier Beverages, Inc., 209 W. Gibson Lane, Phoenix, AZ 85003; Mahoney Plastics Corp. of AZ, 6137 N. 55th Ave., Glendale, AZ 85311; AZ Sparkling Bottle Water, Inc., 12815 N. 39th Ave., Phoenix, AZ; Mayfair Plastics, 1500 E. 223rd St., Carson, CA 90745. Send protests to: Ronald R. Mau, D/S, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 144606 (Sub-5TA), filed June 1, 1979. Applicant: DUNCAN SALES & LEASING CO., INC., 714 E. Baseline Rd., Buckeye, AZ 85326 Representative: Andrew V. Baylor, 337 E. Elm St., Phoenix, AZ 85012. *Expanded plastic bottles*, from La Palma, CA to El Paso, TX and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stewart/Walker Co., 2426 S. 7th St., Phoenix, AZ 85034. Send protests to: Ronald R. Mau, DS, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 144927 (Sub-21TA), filed April 18, 1979. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Warren C. Moberly, 320 North Meridian Street, #777, Indianapolis, IN 46204. *Musical instruments, phonographs, phonograph records, tape recorders, tapes, scrap records, talking machines, carrying cases, music books, show and display cases, pallets, speakers, televisions (and, generally, items handled by retail music stores), printed matter, computing machine paper and paper* between points in CA to MN, IA, MO, AR, and LA, and states east thereof, and between points within the states of MN, IA, MO, AR, and LA and states east thereof, and (2) from the destination states described in (1) above to points in CA for 180 days. Supporting shipper: Pickwick International, IN, 7500 Excelsior Blvd, Minneapolis, MN. Send protests to: Beverly J. Williams, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 145406 (Sub-41TA), filed May 15, 1979. Applicant: MIDWEST EXPRESS, INC., 380 East Fourth St., Dubuque, IA 52001. Representative: Richard A. Westley, Attorney, 4506 Regent St., Suite 100, Madison, WI 53705. *Carcass meat* from the facilities utilized by Iowa Beef Processors, Inc., (IBP), at or near Ft. Dodge, IA to points in the IL counties of Lake, McHenry, Cook, DuPage, Will, Kane & Kendall, and the IN counties of Lake and Porter for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Herbert W. Allen, DS,

ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145566 (Sub-9TA), filed May 15, 1979. Applicant: TERRY W. KULTGEN AND NORMAN W. KULTGEN d.b.a. B & K ENTERPRISES, 7950 S. 27th St., Oak Creek, WI 53154. Representative: Terry W. Kultgen (Same address as applicant). (1) *Sewage pumping equipment* and (2) *parts, materials and accessories for sewage pumping equipment* from Tomah, WI to points in AR, IL, IN, KY, MD, MI, MO, NY, OH, PA, TN, VA & WV, for 180 days. Supporting shipper(s): USEMCO, P.O. Box 583, Tomah, WI 54660. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave, Rm. 619, Milwaukee, WI 53202.

MC 145797 (Sub-7TA), filed May 21, 1979. Applicant: NANCY TRANSPORTATION, INC., 429 Stablestone Dr., Chesterfield, Mo 63017. Representative: Herbert Alan Dubin, Sullivan & Dubin, 1320 Fenwick Ln., Silver Spring, MD 20910. *Drugs* and *citric acid* (except in bulk, in tank vehicles), from the facilities of Miles Laboratories, Inc., at Elkhart, IN to the facilities of Miles Laboratories, Inc., at Memphis, TN and Savannah, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miles Laboratories, Inc., 1127 Myrtle St., Elkhart, IN 46514. Send protests to: P. E. Binder, DS, ICC, 210 N. 12th St., Rm. 1465, St. Louis, MO 63101.

MC 146336 (Sub-6TA), filed May 22, 1979. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 902 Avenue N, Grand Prairie, TX 75050. Representative: E. Larry Wells, Winkle and Wells, P.O. Box 45538, Dallas, TX 75245. Contract carrier, irregular routes, *uncrated Xerox copying machines, word processing machines and parts, materials and supplies used in the manufacturing, installation or sale of such commodities* Between El Paso, TX, on the one hand, and, on the other, points in NM for 180 days. Supporting shipper(s): Xerox Corporation, 2810 Avenue E., East, Arlington, TX 76011. Send protests to: Opal M. Jones, TA, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 75202.

MC 146587 (Sub-3TA), filed May 1, 1979. Applicant: J & D TRUCKING, INC., P.O. Box 183, Littlestown, PA 17340. Representative: John M. Musselman, c/o Rhoads, Sinon & Hendershot, P.O. Box 1146, 410 N. 3rd St., Harrisburg, PA 17108. *Ice cream novelties* from Hanover, PA to pts. in VA, NC, SC, WV, GA, FL, AL, and TN, for 180 days. Supporting shipper(s): Hanover Klondike Co., Inc., 877 York St., Hanover, PA 17331. Send protests to: Interstate Commerce Commission, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 146857 (Sub-1TA), filed May 15, 1979. Applicant: W. K. THOMAS, INC., 72 Tait Street, Ludlow, Massachusetts 01056. Representative: Patrick A. Doyle, 60 Robbins Road, Springfield, MA 01104. Contract carrier: irregular routes: *Magazines and parts or section thereof,* from Chicago, IL to Connecticut, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U.S. News & World Report, Inc., 350 East 22nd Street, Chicago, IL 60616. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 147027 (Sub-1TA), filed May 11, 1979. Applicant: REEVES' TRUCK LINES, Route 2, Honoraville, AL 36042. Representative: J. Douglas Harris and James D. Harris, Jr., 200 S. Lawrence Street, Montgomery, AL 36104. *Plywood, treated and/or untreated lumber, posts, poles and timbers, from Evergreen, River Falls, Brantley, and Lockhart, AL, to points in* AL, FL, GA, KY, LA, MS, and TN, for 180 days. Supporting shipper(s): TMA Forest Products Corp., P.O. Drawer 1487, Andalusia, AL 36420. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 147036 (Sub-1TA), filed May 22, 1979. Applicant: R–D TRANSPORT CO., INC., Summer Drive Extension, Winchendon, MA 01475. Representative: Patrick A. Doyle, 60 Robbins Road, Springfield, MA 01104. Contract carrier: Irregular Routes: *Plastic and plastic articles and supplies and materials* used in their manufacture and distribution, from Leominster, MA and Dallas, TX to points in AL, CT, DE, DC, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV and WI, for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): Plastican, Inc., Industrial Rd., Leominister, MA 01453. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 147056 (Sub-2TA), filed May 9, 1979. Applicant: ARDEN CARTAGE, LTD., 14 Arden Avenue, Hamilton, Ontario. Representative: PETER A. GREENE, 900 17th Street NW., Washington, DC 20006. Contract carrier—irregular routes. *Iron and steel articles,* between the facilities of Thomsson Steel Company, Inc. at Beltsville, MD, on the one hand, and, on the other, points in PA, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thomsson Steel Company, Inc., 12201 Conway Road, Beltsville, MD 20705. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 147226 (Sub-1TA), filed May 17, 1979. Applicant: CHAPMAN MOTOR XPRESS, INC., 1311 N. Roca, Mesa, AZ 85204. Representative: Michael J. Stecher, 256 Montgomery St., San Francisco, CA 94104. *General commodities (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between points in San Bernardino, Los Angeles, Orange, San Diego, Ventura, Riverside, Kern, San Luis Obispo, Imperial and Santa Barbara Counties, CA, on the one hand and on the other, points in AZ, restricted to shipments moving on bills of lading of freight forwarders, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chapman Freight Forwarding, Inc., 1311 N. Roca, Mesa, AZ 85204. Send protests to: Ronald R. Mau, DS, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 147227 (Sub-1TA), filed May 18, 1979. Applicant: ATLANTIC MARKETING CARRIERS, INC., 39400 Clarkson Dr., Kingsburg, CA 93631. Representative: Eric Meierhoefer, Suite 423, 1511 K St. NW., Washington, D.C. 20005. *General commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) which are at the time moving on shippers' association bills of lading, from points in MA and VT to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): New England Shipping Association Co-operative, 1029 Pearl St., Brockton, MA 02403. Send protests to: N. C. Foster, DS, 211 Main, Suite 500, San Francisco, CA 94105.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-20258 Filed 6-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Vol. No. 81]

Permanent Authority Applications; Decision-Notice

Decided: June 11, 1979.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's

Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests, such as are allowed to applications filed prior to March 1, 1979, to these applications will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, and has the necessary equipment and facilities for performing that service, and (2) has either performed service within the scope of the application or has solicited business which is controlled by those supporting the application and which would have involved transportation performed within the scope of the application.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitoner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitoner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the proceedings of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after 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.

Findings

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 transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed 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 the 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.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board 2 Members Boyle, Eaton, and Liberman.

H. G. Homme, Jr.,

Secretary.

MC 27817 (Sub-153F), filed March 5, 1979. Applicant: H. C. GABLER, INC., R.D. No. 3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, (1) from the facilities of Heinz U.S.A., Division of H. J. Heinz Company, at or near (a) Holland, MI, (b) Fremont and Toledo, OH, and (c) Pittsburgh, PA, to the facilities of Heinz U.S.A., Division of H. J. Heinz Company at or near Greenville, SC; and (2) from the facilities of Heinz U.S.A., Division of H. J. Heinz Company, at or near Greenville, SC, to points in NC, restricted in (1) and (2) above to the transportation of traffic originating at the named origin facilities and destined to the named destinations. (Hearing site: Washington, DC or Harrisburg, PA.)

MC 34227 (Sub-18F), filed March 1, 1979. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, a corporation, 15910 East Colfax, Aurora, CO 80011. Representative: James P. Beck, 717 17th Street, Suite 2600, Denver, CO 80101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *suitcases, travel bags, brief cases, and carrying cases*, from Denver, CO, to points in the United States (except AK and HI); and (2) *materials and supplies* used in the manufacture, repair, and distribution of the commodities in (1) above, in the reverse direction, under continuing contract(s) in (1) and (2) with Samsonite Corporation, of Denver, CO. (Hearing site: Denver, CO.)

MC 35807 (Sub-97F), filed March 2, 1979. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, *coin*, between Denver, CO, Philadelphia, PA, Phoenix, AZ, and Stateline, Las Vegas, Reno, and Lake Tahoe, NV, under

continuing contract(s) with General Services Administration, of Washington, DC. (Hearing site: Washington, DC.)

MC 59367 (Sub-136F), filed March 1, 1979. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, IA 50501. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Hygrade Food Products Corporation, at Cherokee and Storm Lake, IA, to points in AZ, CA, IN, MI, OR, and WA. (Hearing site: Detroit, MI, or Chicago, IL.)

MC 63417 (Sub-195F), filed March 5, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture and furniture parts*, from the facilities of Thomasville Furniture Industries, Incorporated, at or near (a) Appomattox and Brookneal, VA, and (b) Hickory, Lenoir, Pleasant Garden, Thomasville, and Winston-Salem, NC; the facilities of Burlington Industries, Incorporated, at or near High Point and Lexington, NC, the facilities of Dixie Furniture Company, Incorporated, and its affiliates Henry-Link Corporation, Link-Taylor Corporation, Young-Hinkle Corporation, at or near Asheboro, Lexington, and Lynwood, NC, and the facilities of Vaughan-Bassett Furniture, Incorporated, at or near (a) Elkin, NC, and (b) Galax, VA, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY. (Hearing site: Roanoke, VA.)

MC 102616 (Sub-981F), filed March 1, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products, vehicle body sealers, sound deadening compounds, and acoustical control products* in bulk, in tank vehicles, from the facilities of Quaker State Oil Refining Corp., in Warren County, MS, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL, or Washington, DC.)

MC 105007 (Sub-50F), filed March 5, 1979. Applicant: MATSON TRUCK LINES, INC., 1407 St. John Avenue, Albert Lea, MN 56007. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat by-products, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at (a) Albert Lea, MN, (b) Cedar Rapids, Des Moines, and Cherokee, IA, and (c) Monmouth, IL, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT and VA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Minneapolis-St. Paul, MN.)

MC 105007 (Sub-51F), filed March 1, 1979. Applicant: MATSON TRUCK LINES, INC., 1407 St. John Avenue, Albert Lea, MN 56007. Representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, dairy products, and articles distributed by meat-packing houses*, as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of John Morrell & Co., at or near (a) Estherville, IA, and (b) Sioux Falls, SD, to points in IL, IA, MN, MO, NE, SD, and WI, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Minneapolis, MN.)

MC 112617 (Sub-422F), filed March 1, 1979. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cornstarch*, in bulk, in hopper-type vehicles, from the facilities of American Maize Products Company, at Hammond, IN, to points in IL, KY, MI, OH, PA, and WV. (Hearing site: Louisville, KY.)

MC 113336 (Sub-91F), filed March 2, 1979. Applicant: PETROLEUM TRANSIT CO., INC., P.O. Box 921, Lumberton, NC 28358. Representative: David C. Venable, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products, vehicle body sealer and sound deadener compounds*, (except commodities in bulk, in tank vehicles), and *filters*, from points in Warren County, MS, to points in AL, AR, FL, GA, KY, MS, NC, SC, TX, and VA; and (2) *petroleum and petroleum products, vehicle body sealer and sound deadener compounds, filters, and materials, supplies, and equipment* used in the manufacture, sale, and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV, to points in Warren County, MS, restricted in (1) and (2) to the transportation of traffic originating at or destined to the facilities of Quaker State Oil Refining Corp., in Warren County, MS. (Hearing site: Memphis, TN or Washington, DC.)

MC 114457 (Sub-493F), filed March 1, 1979. Applicant: DART TRANSIT COMPANY, 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, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs*, (except commodities in bulk), from Waukesha, WI, Albany, GA, Navasota, TX, and points in Johnson County, KS, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, (except commodities in bulk), in the reverse direction. (Hearing site: Milwaukee, WI, or St. Paul, MN.)

MC 115826 (Sub-432F), filed March 6, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from points in OR, WA, ID and UT, to points in AL, TX, OK, FL, NC, SC, TN, NM, VA, KS, MS, LA, GA and KY. (Hearing site: Denver, CO.)

MC 115826 (Sub-433F), filed March 1, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO

80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpet and carpet padding*, from Los Angeles, CA, to points in AZ, CO, ID, MT, NM, NV, OR, TX, UT, WA, and WY. (Hearing site: Denver, CO.)

MC 115826 (Sub-434F), filed March 1, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Omaha, NE.)

MC 117416 (Sub-63F), filed March 1, 1979. Applicant: NEWMAN AND PEMBERTON CORPORATION, 2007 University Avenue NW., Knoxville, TN 37921. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk, in tank vehicles), from the facilities of Kraft, Inc., at or near Lakeland, FL, to points in AL, GA, KY, SC, and TN. (Hearing site: Washington, DC.)

MC 117686 (Sub-148F), filed March 2, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA. Representative: Robert A. Wichser (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting meats, *meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), (1) from the facilities of Farmland Foods, Inc., at or near (a) Denison, Iowa Falls, Carroll, and Sioux City, IA and (b) Omaha, NE, to points in FL, NC, and (2) from the facilities of Farmland Foods, Inc., at or near (a) Des Moines, IA, and (b) Lincoln, ME, to points in AL, FL, GA, LA, MS, NC, SC, and TN, and (3) from the facilities of Farmland Foods, Inc. at or near Fort Lodge, IA, to points in FL, GA, NC, and SC, restricted in (1) and (3) to the transportaiton of traffic origination at the named origin facilities and destined to the indicated destinations. (Hearing site: Omaha, NE or Chicago, IL.)

Note.—Dual operations may be involved.

MC 124896 (Sub-86F), filed March 5, 1979. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Wilson, NC 27893. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bananas*, and (2) *commodities* otherwise exempt from economic regulation under the provision of 49 U.S.C. 10526(a)(6), in mixed loads with bananas, from Wilmington, DE, to points in IL, IN, IA, MI, MN, MO, OH, PA, VA, WV, and WI. (Hearing site: Miami, FL or Washington, DC.)

MC 126736 (Sub-112F), filed March 1, 1979. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commodities in bulk*, in tank vehicles, between the facilities of Union Camp Corporation, located at points in the United States in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Jacksonville, FL.)

MC 133566 (Sub-133F), filed March 5, 1979. Applicant: GANGLOFF & DOWNHAM TRUCKING COMPANY, INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (2) *foodstuffs*, when moving in mixed loads with the commodities named in (1) above, in vehicles equipped with mechanical refrigeration, (1) from the facilities of Oscar Mayer & Co., Inc., at or near Perry and Des Moines, IA, to points in CT, MD, MA, NJ, NY, PA, and VA, and (2) from the facilities of Oscar & Mayer Co., Inc., at or near Madison, WI, to points in TN. (Hearing site: New York, NY or Madison, WI.)

MC 134467 (Sub-42F), filed March 5, 1979. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from the facilities of Foodways National, Inc., at or near Hartford and Wethersfield, CT, to points in OH, MI, IL, MN, MO, TX, CA, ID, WA, OR, and AR. (Hearing site: Hartford, CT or Washington, DC.)

MC 135797 (Sub-193F), filed March 1, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *glassware*, and, (2) *materials, equipment, and supplies* used in the manufacture and distribution of glassware, between the facilities of Santa Claus Industries at Waterloo, IA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 135797 (Sub-194F), filed March 1, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cedar shakes and cedar shingles*, from points in Lincoln County, OR, and Skagit County, WA, to points in AR, LA, MN, MO, OK, TN, and TX. (Hearing site: Seattle, WA.)

MC 136068 (Sub-15F), filed March 5, 1979. Applicant: GUILEY TRUCKING, INC., 8615 Pecan Avenue, Fontana, CA 92335. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. To operate as a *contract carrier*, in interstate or foreign commerce, over irregular routes, transporting (1) *steel roofing, steel siding, and steel floor decking*, from the facilities of Verco Manufacturing, Inc., at (a) Phoenix, AZ, (b) Fontana, CA, and (c) Everett, WA, to points in ID and OK; and (2) *materials, equipment, supplies and accessories* used in the installation, manufacture, and distribution of the commodities in (1) above, between the

facilities of Verco Manufacturing, Inc., located at (a) Phoenix, AZ, (b) Fontana, CA, and (c) Everett, WA, on the one hand, and , on the other, points in AZ, CA, CO, NM, NV, OK, OR, TX, UT, WA, and WY, under continuing contract(s) with Verco Manufacturing, Inc. of Phoenix, AZ. (Hearing site: Los Angeles, CA.)

MC 139006 (Sub-11F), filed March 1, 1979. Applicant: RAPIER SMITH, Rural Route 5, Loretto, Road, Bardstown, KY 40004. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *wooden barrels*, from Louisville, KY, to ports of entry on the international boundary line between the United States and Canada in MI. (Hearing site: Louisville, KY.)

MC 139457 (Sub-17F), filed March 5, 1979. Applicant: G. L. SKIDMORE, d.b.a., JELLY SKIDMORE TRUCKING COMPANY, P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen bakery goods*, from Downers Grove, IL, to Dallas, TX, under continuing contract(s) with Pepperidge Farm, Incorporated. (Hearing site: Dallas, TX or Washington, DC.)

MC 141097 (Sub-20F), filed March 2, 1979. Applicant: CAL-TEX, INC., Box 1678, Costa Mesa, CA 92626. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the United States (except AK and HI), under continuing contract(s) with E.I. du Pont de Nemours & Co., Inc., of Wilmington, DE. (Hearing site: Wilmington, DE or Washington, DC.)

MC 141357 (Sub-8F), filed March 1, 1979. Applicant: SHANUS, INC., 232 First Street North, Minneapolis, MN 55401. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commodities* in bulk, between points in MN, restricted to the transportation of traffic having a prior or subsequent movement by rail or water. (Hearing site: Minneapolis or St. Paul, MN.)

MC 145317 (Sub-5F), filed March 5, 1979. Applicant: QUALITY SERVICE TANK LINES, INC., 9022 Perrin Beitel, San Antonio, TX 78217. Representative: Charles E. Munson, 500 West Sixteenth Street, P.O. Box 1945, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand*, in bulk, in tank vehicles, from points in Atascosa County, TX, to points in LA. (Hearing site: San Antonio or Austin, TX.)

MC 146626 (Sub-1F), filed March 5, 1979. Applicant: DON THREDE, d.b.a., DON THREDE TRUCKING CO., 1777 Arnold Industrial Highway, Concord, CA 94520. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *flat glass*, from the facilities of Guardian Industries Corp., at Kingsbury, CA, to points in AZ and NV, under continuing contract(s) with Guardian Industries Corp., of Kingsbury, CA. (Hearing site: San Francisco, or Fresno, CA.)

[FR Doc 79-20257 Filed 6-29-79; 8:45 am]

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[Decisions Volume No. 20]

Permanent Authority Applications; Decision-Notice

Correction

In FR Doc. 79-9096 appearing at page 18324 in the issue for March 27, 1979, make the following correction: On page 18332, in the third column, in the 3rd line, substitute "Cranbury, NJ" for "Cranbury, NY".

BILLING CODE 1505-01-M

Permanent Authority Applications; Decision-Notice

Correction

In FR Doc. 79-12715 appearing at page 24217 in the issue for April 24, 1979, make the following correction: On page 24223, in the middle column, in the paragraph with designation MC 146243F, in the 7th line, substitute "contract carrier" for "common carrier".

BILLING CODE 1505-01-M

[Notice No. 99]

Assignment of Hearings

June 20, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 115162 (Sub-449F), Poole Truck Line, Inc., transferred to Modified Procedure.

MC 142559 (Sub-72F), Brooks Transportation, Inc., transferred to Modified Procedure.

MC 115311 (Sub-304F), J & M Transportation Co., Inc., transferred to Modified Procedure.

MC 119619 (Sub-128F), Distributors Service, Inc., transferred to Modified Procedure.

MC 115162 (Sub-431F), Poole Truck Line, Inc., transferred to Modified Procedure.

MC 135895 (Sub-30F), B & R Drayage, Inc., transferred to Modified Procedure.

MC 2900 (Sub-342F), Ryder Truck Lines, Inc., now assigned for continued hearing on July 11, 1979 (3 days), at Birmingham, AL, and will be held in the G.S.A. Conference Room 430, 4th Floor, U.S. Courthouse and Federal Bldg., 1300—5th Avenue North.

MC 111545 (Sub-255F), Home Transportation Company, Inc., now assigned for hearing on July 17, 1979 (4 days), at Reno, NV, and will be held in the MGM Grand Hotel, 2500 E. 2nd Street.

MC 123294 (Sub-51F), Warsaw Trucking Co., Inc., now assigned for hearing on July 30, 1979 (1 week), at Cincinnati, OH, and will be held in Room 305, U.S. Post Office and Courthouse, 5th & Walnut Street.

MC 120098 (Sub-31F), Uintah Freightways, now assigned for hearing on July 17, 1979 (9 days), at Salt Lake, UT, is postponed indefinitely.

MC 144729 (Sub-1F), RFK Charter Coaches, Inc., now assigned for hearing on July 23, 1979 (1 week), at Omaha, NE, is canceled and application dismissed.

MC 128007 (Sub-130F), Hofer, Inc., now assigned for hearing on July 30, 1979 (2 days), at Chicago, IL, is postponed indefinitely.

MC 115331 (Sub-469F), Truck Transport Incorporated, now assigned for hearing on July 30, 1979 (1 day), at Chicago, IL, in a hearing room to be later designated.

MC 118159 (Sub-283F), National Refrigerated Transport, Inc., now assigned for hearing

on July 31, 1979 (1 day), at Chicago, IL, in a hearing room to be later designated.

FD 29021, Consolidated Rail Corporation (Conrail)—Discontinuance Of Passenger Trains Nos. 453–456 Between Vaparaiso, IN, and Chicago, IL, now assigned for hearing on June 28, 1979 at Gary, IN, and will be held in the City Hall Lounge, City Hall, 401 Boardway.

FD 29021F, Consolidated Rail Corporation (Conrail)—Discontinuance Of Passenger Trains Nos. 453–456 Between Vaparaiso, IN, and Chicago, IL, now assigned for hearing on June 29, 1979 at Hobart, IN, and will be held in the Counsel Chamber, City Hall.

FD 29021F, Consolidated Rail Corporation (Conrail)—Discontinuance Of Passenger Trains Nos. 453–456 Between Vaparaiso, IN, and Chicago, IL, now assigned for hearing on June 30, 1979, at Vaparaiso, IN, and will be held in the Counsel Chamber, City Hall.

Ex Parte 352, In The Matter Of Clarence William Vandergrift, now assigned for Prehearing Conference on July 11, 1979, at Washington, DC, is postoned to July 24, 1979 now assigned for Prehearing Conference at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 114457 (Sub-431F), now assigned for hearing on July 24, 1979 at Columbus, OH, is canceled and reassigned to July 24, 1979, at Cleveland, OH, and will be held in Room 604, Lakewood Center, North Office Tower, 14600 Detroit Avenue.

MC 82841 (Sub-229F), Hunt Transportation, Inc., now assigned for hearing on July 12, 1979 at Dallas, TX, is canceled.

AB 7 (Sub-71F), Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul & Pacific RR Co., Debtor, Abandonment near Ripon junction & Oshkosh in Fond du Lac and Winnegabo Counties, WI, now being assigned for hearing on August 20, 1979 (1 week), at Oshkosh, WI in a hearing room to be designated later.

AB 1 (Sub-66F), Chicago and North Western Transportation Company—Abandonment in Fond du Lac, Green Lake, Marquette, Waushara and Portage Counties, WI, now being assigned for hearing on August 13, 1979 (1 week), at Wautoma, WI in a hearing room to be designated later.

MC–F–13679, Suddath Van Lines, Inc.—Purchase Portion—Plymouth Van Lines, Inc., now being assigned for hearing on September 10, 1979 (5 days), at Jacksonville, FL in a hearing room to be designated later.

MC 29904 (Sub-3F), Suddath Van Lines, Inc., now being assigned for hearing on September 10, 1979 (5 days), at Jacksonville, FL in a hearing room to be designated later.

MC 119789 (Sub-524F), Caravan Refrigerated Cargo, Inc., now being assigned for hearing on September 5, 1979 (3 days), at Tampa, Fl in a hearing room to be designated later.

MC 143621 (Sub-4F), Tennessee Steel Haulers, Inc., now being assigned for hearing on July 30, 1979 (2 days), at Nashville, TN, in Room No. 961, U.S. Courthouse Bldg., 801 Broadway, Nashville, TN.

MC 103051 (Sub-462F), Fleet Transport Company, Inc., now being assigned for hearing on August 1, 1979 (3 days), at Nashville, TN, in Room No. 961, U.S. Courthouse Bldg., 801 Broadway, Nashville, TN.

MC 12858 (Sub-2F), Sutton's Tours and Travel Service, Inc., transfered to Modified Procedure.

MC 108461 (Sub-129F), Sundance Freight Lines, Inc. DBA Sundance Transportation, now assigned for hearing on June 25, 1979, at Hopps, New Mexico is postponed indefinitely.

MC 144247 (Sub-3F), Downey Enterprises Inc., now assigned for hearing on July 10, 1979 (1 day), at Denver, CO, is advanced to July 9, 1979.

H. G Homme, Jr.,

Secretary.

[FR Doc. 79–20373 Filed 6–29–79; 8:45 am]

BILLING CODE 7035–01–M

[Decision; Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: June 26, 1979.

In a decision served June 19, 1979, the Commission amended Special Permission No. 79–2800 and authorized all regulated motor carriers to file for fuel-based surcharges on one day's notice using the surcharge figures set forth in the Commission's weekly fuel index. In that decision, the Commission also established a second surcharge figure to be used by carriers not using owner-operators for that portion of their traffic which moves at less-than-truckload (LTL) rates.

Certain problems of interpretation and misunderstanding have arisen, as well as the need to make certain adjustments to the procedures set forth in our prior decisions. The Commission finds that it is vital that all parties know their rights and responsibilities under the X–311 procedures.

There is some concern among owner-operators that the surcharge figure is not adequate, and that it only compensates them for a small percentage of their fuel cost increases. The Commission emphasizes that this surcharge should ensure that all owner-operators should receive compensation for virtually 100 percent of fuel cost expenses incurred above the base period price on January 1, 1979. The surcharge produces the same recovery for owner-operators that would be realized by a 35 percent surcharge on just the fuel portion of trip expenses.

The Commission's fuel index is an average of diesel fuel prices at selected truck stops in various areas of the United States. We have also derived a national average of the relationship of owner-operator fuel costs to total carrier revenue when handling truckload traffic. This figure is 16.9 percent. By multiplying the percentage increase in fuel costs since January 1, 1979 (as of June 25, 1979, average fuel costs have increased 36.6 percent) by 16.9 percent, the Commission has derived the surcharge figure. When this surcharge figure is applied against presently applicable rates it should provide owner-operators compensation for virtually all fuel cost expenses incurred since January 1, 1979.

The figures in our index are national averages, and some owner-operators may be experiencing diesel fuel prices above the average level set forth in the index. The Commission has provided that all carriers whose owner-operators need a larger surcharge than that provided in our weekly index have the right to file for such under the 10-day notice procedures in Special Permission Nos. 79–2620 or 76–350. At the same time, the Commission has ordered that all regulated carriers, whether or not they have filed or intend to file for X–311 fuel-based increases, are to compensate their respective owner-operators for increased fuel costs incurred since January 1, 1979.

The weekly figures set forth in the appendix for transportation performed by owner-operators and truckload traffic is 6.2 percent. However, we recognize the concerns that have been expressed regarding the diesel fuel base price figure of 63.6 cents which did not include a factor for the lower prices associated with "self-service" utilized by many owner-operators. We are also aware of shipper concerns that weekly tariff adjustments are burdensome and confusing. Under our June 15 decision, a 6.7 percent maximum surcharge on truckload traffic was authorized and is still in effect. Considering these factors, we authorize a 7 percent surcharge on all owner-operator and truckload traffic. All owner-operators are to receive compensation at this 7 percent level. We will continue to publish the index weekly but further upward changes in the surcharge are not contemplated until the index exceeds 7 percent.

Other owner-operators have expressed concern regarding the October 31, 1979 expiration date for the surcharges. This date was chosen mainly for convenience, as surcharge tariffs generally must have a published expiration date. The Commission's intent is that the surcharges published under the applicable Special

Permissions will remain in effect until the fuel crisis abates. We will amend Special Permission Nos. 79–2800 and 79–2620 to allow that all future tariff filings must show an expiration of no longer than one year from the effective date of the surcharge, but that the Commission will reserve the right to shorten or extend the expiration date by a decision to be entered if and when the fuel crisis eases.

A further amendment to Special Permission No. 79–2800 will be made by eliminating the requirement that surcharge increases of less than .5 percent shall not be requested.

A further amendment will also be made to Special Permission No. 79–2800. Carriers seeking a surcharge on LTL traffic will now have to provide certification if they use owner-operators on this traffic. All carriers are to certify in surcharge filings that the full amount of the surcharge derived is to be passed through to the person bearing the increased fuel expense.

In general, Special Permission No. 79–2800 is only to apply to regulated motor carriers. With regard to freight forwarders which use motor carriers, however, the special permission will be liberally granted to use these one-day notice procedures, where appropriate. In addition, a petition has been filed by the National Bus Traffic Association (NBTA) requesting that the one-day procedures be made applicable to the bus carriers. We find that the relief should be granted.

Certain other points of clarification are needed. Although there are some differences, for purposes of the X–311 procedures, any-quantity rates (AQ) are to be considered the same as LTL rates. A question has also arisen as to whether the surcharge should be made applicable to detention charges. While there are some instances in which detention does consume fuel, it appears that as a general rule this is not the case. Therefore, for purposes of these procedures, the surcharges shall not be applied to detention charges.

In our prior decision of June 15, 1979, we stated that all regulated carriers which had already compensated their owner-operators may use Special Permission Nos. 79–2620 or 76–350 to recoup these expenses. Special Permision No. 79–2800 may be used in the same manner as long as the increase sought does not exceed the percentage surcharge figure listed in the Commission's weekly fuel index.

We emphasize to the carriers the requirement in Ex Parte No. MC–43 (Sub-No. 7), *Lease and Interchange of Vehicles*, 131 M.C.C. 141, 160 (1979), 49 C.F.R. 1057.12(h) that the owner-operator is to receive a copy of all rated freight bills. Owner-operators and shippers have voiced the concern that the rated freight bills are only indicating the dollar amount of the surcharge imposed. We encourage the carriers to include also the percentage surcharge figure on the respective freight bills.

Finally, the Commission has determined that United Parcel Service (UPS) shall not be entitled to use the special one-day notice procedures. UPS' annual report for 1978, required to be filed with this Commission, indicates that its percentage of fuel costs when moving LTL traffic is 3.7 percent, which is almost half the figure of 7.5 percent as shown in our weekly fuel index for such traffic. As such, the possible granting to UPS of a 2.7 percent surcharge on LTL traffic may result in an unjustified windfall. If UPS wishes to file an X–311 increase, it must come in under the 10-day notice procedures in Special Permission Nos. 79–2620 or 76–350 using its own cost data.

The Commission's weekly fuel index with the updated surcharge figures is attached as an appendix to this decision.

It is ordered:

Special Permission No. 79–2800 is amended as follows:

1. After paragraph 2a, add new paragraph 2b which states as follows:

"The relief in paragraph 1 is also applicable to motor carriers of passengers. For purposes of this Special Permission, the carriers must use a figure no greater than the percentage surcharge figure for less-than-truckload traffic as stated in the Commission's weekly fuel index."

2. At the end of paragraph 1, add the following sentence:

"For purposes of this Special Permission, a proposed surcharge will not be applicable to detention charges."

3. At the end of paragraph 1a, add the following sentence:

"For purposes of this Special Permission, any-quantity rates (AQ) are to be considered the same as less-than-truckload rates."

4. At the end of paragraph 2a, add the following sentence:

"For carriers seeking a surcharge for LTL traffic under the terms of this paragraph, each publication shall contain a certification that the carriers use owner-operators for the traffic."

5. In paragraph 8 of this Special Permission, as well as paragraph 8 of Special Permission No. 79–2620, delete the sentences requiring that increases of less than .5 percent shall not be requested.

6. Paragraph 5 of Special Permission No. 79–2800 and paragraph 5 of Special Permission No. 79–2620 are deleted, and the following is substituted:

"All surcharges filed under this Special Permission must have an expiration date of no later than one year from the effective date of the surcharge. The Commission, however, reserves the right to shorten or extend the expiration dates by decision to be entered when it has been determined that the fuel crisis has abated."

7. In Special Permission No. 79–2800, paragraph 2, line 3, insert a comma after "basis", and add "except as otherwise ordered."

It is further ordered:

The relief granted in Special Permission No. 79–2800 is not applicable to United Parcel Service. If that carrier wishes to propose an X–311 increase, it must use Special Permission Nos. 79–2620 or 76–350, where appropriate.

Notice of the amendments to Special Permission Nos. 79–2800 and 79–2620 shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, DC for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

This decision shall become effective 12:01 a.m. June 27, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian.

H. G. Homme, Jr.,

Secretary.

Appendix—Fuel Surcharge

Base Date and Price Per Gallon (Including Tax)

January 1, 1979—63.6¢.

Date of Current Price Measurement and Price Per Gallon (Including Tax)

June 25, 1979—86.9¢.

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue

(1) From Transportation Performed by Owner Operators. (Apply to All Truckload Traffic)—16.9%.

(2) Other. (Including Less-Truckload Traffic)—7.5%.

Percent Surcharge

6.2%

2.7%

[FR Doc. 79-20372 Filed 6-27-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 106]

Motor Carrier Temporary Authority Applications

June 14, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 682 (Sub-14TA), filed April 20, 1979. Applicant: BURNHAM VAN SERVICE, INC., P.O. Box 7966, Columbus, GA 31908. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. *New furniture* from Athens, TN to points in the U.S. (except AK and HI), for 180 days. Supporting shipper(s): Athens Furniture, Inc., P.O. Box 929, Athens, TN 37202. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 4963 (Sub-68TA), filed April 17, 1979. Applicant: JONES MOTOR CO., INC., Bridge St. & Schuylkill Rd., Spring City, PA 19475. Representative: William H. Peiffer, same as applicant. *Paper, paper products, cellulose products, and equipment materials, and supplies* used in the manufacture and distribution of paper, paper products, and cellulose products (except commodities in bulk) between facilities of Proctor & Gamble Paper Products Co. in Wyoming, Lackawanna, and Luzerne Counties, PA, on the one hand, and, on the other, facilities of Proctor & Gamble Paper Products Co., at or near Neely's Landing, MO and Cheboygan, MI, for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): The Proctor & Gamble Paper Products Co., P.O.B. 599, Cincinnati, OH 56201. Send protests to: T. M. Esposito, Trans. Asst., 101 S. 7th St., Room 620, Phila., PA 19106.

MC 4963 (Sub-69TA), filed April 27, 1979. Applicant: JONES MOTOR CO., INC., Bridge Street & Schuylkill Road, Spring City, PA 19475. Representative: William H. Peiffer (same as applicant). *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment) serving Glens Falls, Hudson Falls, South Glens Falls and Fort Edward, NY as off route points in connection with carrier's otherwise authorized regular route operations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kamyr Installation Inc., 7173 Burgoyne Abe., Fort Edward, NY; Spencer Gifts, Aviation Mall, Aviation Rd., Glens Falls, NY; Spencer Gifts, 1601 Albany Ave. Blvd., Atlantic City, NJ 08411; Queensbury Motors Inc., Quaker Rd., POB 270, Glens Falls, NY; Sandy Hill Corp., 27Allen St., Hudson Falls, NY; Trumble Specialty Inc., Warren St., Glens Falls, NY; Mary O Shop Inc., 156 Main St., Hudson Falls, NY. Send protests to: T. M. Esposito, Trans. Asst., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 11722 (Sub-60TA), filed April 30, 1979. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, WA 98953. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. *Cans and can ends* from Portland, OR and Lacy, WA to Billings, Great Falls and Helena, MT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Can Company, U.S.A., P.O. Box 03220, Portland, OR 97203. Send protests to: R. V. Dubay, D/S, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 32882 (Sub-115TA), filed March 9, 1979. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Blvd., Portland, OR 97217. Representative: David J. Lister, P.O. Box 17039, Portland, OR 97217. *Highway marking spheres (glass) and highway marking paint.* From Anaheim, CA to points in AZ for 180 days. Restriction: Restricted to shipments originating at the facilities of Potters Industries, Inc. located at or near Anaheim, CA. Supporting shipper(s): Potters Industries, Inc., 1225 S. Lewis Street Anaheim, CA 92805. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, OR 97204.

MC 47583 (Sub-96TA), filed April 24, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. *Glass containers,* from the facilities of Midland Glass Company, Inc. located at or near Henryetta, OK to all points and places in the States of IN and MI, for 180 days. Supporting shipper(s): Midland Glass Company, Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: V. V. Coble, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106. An underlying ETA seeks 90 days authority. Supporting shipper(s): Midland Glass Company, Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: V. V. Coble, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 47583 (Sub-97TA), filed April 24, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. *Paper and paper products* (except commodities in bulk), from Camden, AR to the facilities of Owens Corning Fiberglas Corp., located at Kansas City, KS, for 180 days. Restricted to traffic originating at and destined to named points. Supporting shipper: Owens Corning Fiberglas Corp., Sunshine & Fiberglas, Kansas city, KS 66115. Send protests to: V. V. Coble, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106. An underlying ETA seeks 90 days authority. Supporting shipper(s): Owens Corning Fiberglas Corp., Sunshine & Fiberglas, Kansas City, KS 66115. Send protests to: V. V. Coble, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106

MC 64932 (Sub-598TA), filed April 2, 1979. Applicant: ROGERS CARTAGE COMPANY, 10735 South Cicero Ave., Oak Lawn, IL 60453. Representative: William F. Farrell, (same address as applicant). *Liquid chemicals, in bulk, in tank vehicles,* from facilities of Union Carbide at or near Texas City and No. Seadrift, TX to points in IL, IN, KS, MN, MO, NJ, OH, OK, PA, WI and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Carbide Corporation, 270 Park Ave., New York, NY 10017. Send protests to: Annie Booker, TA, ICC, 1386 Dirksen Bldg., 219 So. Dearborn St., Chicago, IL 60604

MC 65802 (Sub-69TA), filed April 28, 1979. Applicant: LYNDEN TRANSPORT, INC., 5615 W. Marginal Way S.W., Seattle, WA 98106. Representative: John R. Sims, Jr., 915 Penn Bldg., 425 13th ST., N.W., Washington, D.C. 20004. *General Commodities,* between Fairbanks, AK and Prudhoe Bay, AK, serving all intermediate and off-route points within 100 miles of the unnumbered highway between Livengood and Prudhoe Bay: From Fairbanks over AK State Hwy, No. 2 to Livengood, thence over unnumbered highway to Prudhoe Bay, AK, and return over the same route, on traffic having a prior or subsequent out-of-state movement. NOTE: Applicant intends to tack and interline at Fairbanks, AK, for 180 days. Supporting shipper(s): There are 8 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 65802 (Sub-70TA), filed April 9, 1979. Applicant: LYNDEN TRANSPORT, INC., P.O. Box 433, Lynden, WA 98264. Representative: Charles H. Ruby, 5615 W. Marginal Way S.W., Seattle, WA 98106. *Raw Clay,* in bulk, between the Port of Entry on the United States-Canada International Boundary Line located at or near Sumas, WA, on the one hand, and, on the other, Everett, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clayburn Industries, Ltd., Railway & Pine, Abbotsford, B. C. Canada, V2S 5C1. Send protests to: Hugh H. Chaffee, D/S, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 71593 (Sub-30TA), filed April 23, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 East Second Street, Scotch Plains, NJ 07076. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. 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), which are at the time moving on bills of lading of freight forwarders as defined in 49 U.S.C. 10102(8), between points in MI and OH, on the one hand, and, on the other, Chicago, IL for 180 days. Supporting shipper(s): Universal Carloading & Distributing Co., Inc., 345 Hudson Street, New York, NY 10014. Stor Dor Freight System, Inc., 617 North Mission Road, Los Angeles, CA 90035. Send protests to: Robert E. Johnston, DS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 71593 (Sub-31TA), filed April 23, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 East Second Street, Scotch Plains, NJ 07076. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) from the facilities of Import-Export Shippers Cooperative, Inc., at Los Angeles, CA to points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) from the facilities of Import-Export Shippers Cooperative, Inc., at Chicago, IL to points in CT, DE, MD, MA, NJ, NY, PA, and RI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): IMEX (Import-Export Shippers Cooperative, Inc.), 2437 East 14th Street, P.O. Box 21428, Los Angeles, CA 90021. Send protests to: Robert E. Johnston, DS, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 71593 (Sub-32TA), filed April 24, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 East Second Street, Scotch Plains, NJ 07076. Representative: Charles J. Wiliams, 1815 Front Street, Scotch Plains, NJ 07076. General commodities (except those of unusual value, Classes A and B explosives, household goods as defined as defined by the Commission, commodities in bulk, and those requiring special equipment), which are at the time moving on bills of lading of freight forwarders as defined in 49 U.S.C. 101102(8), between points in MI and OH, on the one hand, and, on the other, points in AZ, CA, LA, OK and TX, for 180 days. Supporting shipper(s): Stor Dor Freight System, Inc., 617 North Mission Road, Los Angeles, CA 90035, Universal Carloading & Distributing Co., Inc., 345 Hudson Street, New York, NY 10014., Westrausco Freight Company, P.O. Box 54810, Los Angeles, CA 90054. Send protests to: Robert E. Johnston D/S, ICC, 9 Clinton Street, Room 618, Newark, NJ 07102.

MC 82093 (Sub-3TA), filed April 23, 1979. Applicant: THE PORTAGE TRANSFER COMPANY, P.O. Box 86, Hiram, OH 44234. Representative: John P. McMahon, Esq., 100 East Broad St., Columbus, OH 43215. Contract carrier, irregular routes, *iron and steel sheet,* from Butler, PA, to Ashland, KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armco, Inc., 24 North Main St., Middletown, OH 45043. Send protests to: Mary Wehner, D/S, I.C.C., 731 Federal Bldg., Cleveland, OH 44199.

MC 86913 (Sub-44TA), filed April 17, 1979. Applicant: EASTERN MOTOR LINES, INC., P.O. Box 649, Warrenton, NC 27589. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Penn. Ave. & 13th St., N.W., Washington, DC 20004. *Composition board* from Ashtabula, OH to points in CT, DE, ME, MD, MA, NH, NJ, NC, PA, RI, SC, VT, VA, and DC for 180 days. An underlying ETA has been filed seeking 90 days authority. Supporting shipper(s) MacMillan Bloedel Building Material, 6440 Powers Ferry Road, Suite 200, Atlanta, GA 30339. Send protests to: Archie W. Andrews, ICC, P.O. Box 26896, Raleigh, NC 27611.

MC 92633 (Sub-31TA), filed March 27, 1979. Applicant: ZIRBEL TRANSPORT, INC., Box 933, Lewiston, ID 83501. Representative: Donald A. Erickson, 708 Old National Bank Bldg., Spokane, WA 99201. *Liquid glues and resins in bulk in collapsible bags or containers,* (1) from the facilities of Monsanto Plastic and Resins Company, at Eugene, OR, to the facilities of Potlatch Corporation, at Lewiston, Post Falls, St. Maries, and Jay Pe, ID; (2) from the facilities of Reichold chemicals, Inc., at Tacoma, WA and White City, OR, to the facilities of Potlatch Corporation at Lewiston, Post Falls, St. Maries, and Jay Pe, ID; (3) from the facilities of Pacific Restins and Chemicals, Inc., at Eugene and Postland, OR, to the facilities of Potlatch Corporation at Lewiston, Post Falls, ST. Maries, and Jay Pe, ID; and (4) from the facilities of Borden Chemical, Division of Borden, Inc., at Island City, OR and Missoula, MT, to the facilities of Potlatch Corporation at Lewiston, Post Falls, St. Marie, and Jay Pe, ID, for 180 days. Supporting shipper(s): There are 5 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 96992 (Sub-14TA), filed April 30, 1979. Applicant: HIGHWAY PIPELINE TRUCKING COMPANY, P.O. Box 1517, Edinburg, TX 78539. Representative: Kenneth R. Hoffman, 801 Vaughn Building, Austin, TX 78701. Applicant seeks common motor carrier authority over irregular routes to transport. (1) *Gasoline,* in bulk, in tank vehicles, from Arcadia, LA and the facilities of Atlas Processing Co. at or near Shreveport, LA, to Carthage, Henderson, Marshall and San Augustine, TX; and (2) *Gasoline and diesel fuel,* in bulk, in tank vehicles, from the facilities of Atlas Processing Co. at or near Shreveport, LA, to Center, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Oil Company, P.O. Box 2197, Houston, TX 77001, Exxon Company, U.S.A., P.O. Box 2180, Houston, TX 77001. Send protests to: Richar H. Dawkins, DS, ICC, Room B–400 Federal Building, 727 E. Durango St., San Antonio, TX 78206.

MC 96992 (Sub-16TA), filed April 23, 1979. Applicant: HIGHWAY PIPELINE TRUCKING CO., P.O. Box 1517, Edinburg, TX 78539. Representative: Kenneth R. Hoffman, Lanham, Hatchell, Sedberry and Hoffman, 801 Vaughn Building, Austin, TX 78701. Authority sought as a common motor carrier, over irregular routes, transporting. *Petroleum and petroleum products,* in bulk, from Center, TX to Mansfield, Many, and Winnfield, LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): H. H. Samuels, Inc., P.O. Box 725, Mansfield, LA 71052. Texaco Inc., 1111 Rusk Ave., Houston, TX 77002. Send protests to: Richard H. Dawkins, D/S, Room B–400 Federal Building, 727 E. Durango St., San Antonio St., San Antonio, TX 78206.

MC 99653 (Sub-18TA), filed April 27, 1979. Applicant: VICTORY FREIGHT LINES, INC., P.O. Box 2254, Birmingham, AL 35201. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. *Cast iron pipe, valves, couplings, gaskets and fittings,* from the facilities of United States Pipe & Foundry Co., in Jefferson County, AL, to points in OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U.S. Pipe & Foundry Co., 3300—1st Avenue, North, Birmingham, AL 35203. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—212 Building, Birmingham, AL 35203.

MC 103993 (Sub-966TA), filed April 18, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: Paul D. Borghesani, (same address as applicant). *Iron and steel articles,* from the facilities of Speedrack, Inc. at Qunicy, IL, to all points in the U.S. (except HI), for 180 days. Supporting shipper(s): Speedrack, Inc., 5300 Golf Road, Skokie, IL 60077. Send protests to: Beverly J. Williams, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 103993 (Sub-967TA), filed April 24, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: Paul D. Borghesani, (same address as applicant). *Materials, equipment and supplies used in the manufacture, sale and distribution of metal buildings and metal building parts (except commodities in bulk),* from points in the states of IL, IN and OH, to the plantsite and storage facilities of Butler Manufacturing Company at or near Annville, PA; Birmingham, AL; and Kansas City, MO, for 180 days. Supporting shipper(s): Butler Manufacturing Company, 1020 S. Henderson Street, Galesburg, IL 61401. Send protests to: Beverly J. Williams, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 107002 (Sub-373TA), filed April 20, 1979. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Borth (same as applicant). *Plastic materials, Flakes, NOIBN, Granules, Powder, Solid Mass,* in bulk, in tank vehicles, from Memphis, TN to Clinton, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hercules, Incorporated, 3169 Holcomb Bridge Road, Suite 700, Norcross, GA 30071. Send protests to: Alan C. Tarrant, 145 East Amite Building, Room 212, Jackson, MS 39201.

MC 110563 (Sub-279TA), filed April 23, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: John L. Maurer (same address as applicant). *Frozen bakery products,* (1) From Norfolk and Portsmouth, VA to the facilities of L. J. Harris Pie Co., located at Saugatuck and Holland, MI. (2) From the facilities of L. J. Harris Pie Co., located at Saugatuck and Holland, MI to points in CO, KS, NE, IA, MN, WI, MO, IL, IN, OH, KY, VA, PA, NY, NJ, DE, MD, CT, MA, ME, VT, NH, RI, NC, SC, & TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s) L. J. Harris Pie Co., Saugatuck, MI. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 110563 (Sub-280TA), filed April 30, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: John L. Maurer (same address as applicant). *Plastic articles and accessories used in the floral industry,* from: the facilities of Smithers Co., located at or near Kent, OH to points in the U.S. except AK and HI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Smithers Co., P.O. Box 118, Kent, OH 44094 Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 110563 (Sub-281TA), filed May 3, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Representative: Victor J. Tambascia (same address as applicant). *Meats, meat products, and meat by-products and articles distributed by meat packing houses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk),* from facilities used by John Morrell & Co., at or near Sioux City, IA to pts. in IL, IN, MI, and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s) John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 111302 (Sub-154TA), filed April 19, 1979. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, 1500 Amherst Rd., Knoxville, TN 37919. Representative: David A Petersen (same address as applicant). *Liquid Chemicals, Fatty Acids, Tall Oils, Sunflower Oils, and Linseed Oils,* in bulk, in tank vehicles, from Charleston, SC; Chattanooga, TN; Freeport, TX; Jacksonville, FL; Longview TX; Midland, MI; Minneapolis, MN; and Plaquemine, LA to the facilities of Cargill, Inc. in Forest Park, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cargill, Inc., 71 Barnett Road, Forest Park, GA 30050. Send protests to: Glenda Kuss, TA, ICC, Suite A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 111812 (Sub-635TA), filed April 17, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma (same as applicant's address). *Lawn and garden equipment, snow removal equipment and parts thereof, NOI* from the facilities of Ariens Co. located at or near Brillion, WI to Sioux Falls, SD for 180 days. An

underlying ETA seeks 90 days authority. Supporting shipper(s): Ideal Yardware, 414 South Minnesota Avenue, Sioux Falls, SD 57102. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 112713 (Sub-272TA), filed April 30, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, Overland Park, KS 66207. Representative: Robert E. DeLand (same address as applicant). *Common carrier:* regular route: *General Commodities,* except Classes A and B explosives, commodities in bulk, household goods, as defined by the Commission, commodities requiring special equipment and those of unusual value, serving the facilities of the Palo Verde Nuclear Generating Plant near Arlington, AZ, as an off-route point in connection with carrier's otherwise authorized operations, for 180 days. Supporting shipper: Bechtel Power Corp. Los Angeles Power Div., 12400 E. Imperial Hwy, Norwalk, CA 90650. Send protests to: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106. NOTE: Applicant proposes to tack. Applicant proposes to interline at origin points that are off line of Yellow's system. Supporting shipper(s): Bechtel Power Corp. Los Angeles Power Div., 12400 E. Imperial Hwy, Norwalk, CA 90650. Send protests to: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 113362 (Sub-356TA), filed April 23, 1979. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *Meats, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A, C, and D of Appendix I to the report In Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides and commodities in bulk) between Britt and Mason City, IA, on the one hand, and, on the other, points in and east of ND, SD, NE, CO, OK, and TX. Restricted to shipments originating at or destined to the facilities utilized by Lauridsen Foods, Inc. at or near Britt, IA and Armour & Co. at Mason City, IA for 180 days. Supporting shipper(s): Armour and Co., Greyhound Tower, Phoenix, AZ 85077. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 113843 (Sub-260TA), filed April 20, 1979. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, MA 02210. Representative: Lawrence T. Sheils (same address as applicant). Authority sought to operate as a common carrier, over irregular routes, in the transportation of *leather,* from Plymouth, MA to points in AZ, CA, CO, FL, GA, IL, MD, MI, MO, NJ, NY, OH, PA, TX AND WI for 180 days. Supporting shipper(s): Superior Pet Products, Inc., 470 Atlantic Ave., Boston, MA 02210. Send protests to: John B. Thomas, DS, ICC, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 113843 (Sub-261TA), Filed June 4, 1979. Applicant: REFRIGERATED FOOD EXPRESS INC., 316 Summer St., Boston, MA 02210. Representative: Lawrence T. Sheils (same address as applicant). *Common carrier:* irregular routes: *frozen foods* (1) From: South Windsor and Suffield, CT To: Points in PA on and east of U.S. Higway 220, NJ, NY, MD, VA and the DC. (2) From: Agawam and Springfield, MA To: Points in NJ, NY and DC. (3) From: Boston, MA To: Points in NJ, NY, for 180 days. Supporting shipper(s): H.P. Hood Inc., 500 Rutherford Ave., Boston, MA 02129. Send protests to: John B. Thomas, DS, ICC, 150 Causeway Street, Boston, MA 02114.

MC 114273 (Sub-595 TA), filed April 23, 1979. Applicant: CRST, Inc., P.O. Box 68, Cedar Rapids IA 52406. Representative: Kenneth L. Core (same as applicant). *Iron and steel articles,* from Wilton, IA to points in MD, PA and NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-601 TA), filed April 19, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney (same as applicant). A. *Construction machinery and parts* (except commodities which because of size and weight require special equipment) from (1) Bowling Green and Lexington, KY to Chicago, IL and (2) from Cedar Rapids, IA to Bowling Green and Lexington, KY. B. *Synthetic strapping, cellulose films, seals, buckles, hooks, staples, and related tools and stands and plastic articles* from Downingtown, PA to points in Illinois, Missouri, Wisconsin, Minnesota, Nebraska, Colorado, Michigan and Iowa. C. *Cellulose flour, edible* (except in bulk, in tank vehicles), from Newark, Delaware to points in Indiana, Iowa, Illinois, Kentucky, Minnesota, Missouri, Michigan, Ohio and Wisconsin.

Restricted in (A), (B), and (C) above to freight originating at or destined to the facilities of the FMC Corporation for 180 days. Supporting shipper(s): FMC Corporation, Prudential Plaza, Chicago, IL 60601. Send protests to: Herbert W. Allen, DS, ICC 518 Federal Bldg., Des Moines, IA 50309.

MC 115092 (Sub-83 TA), filed April 16, 1979. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, UT 84078. Representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. *Lumber and lumber products* (except in bulk) from Anderson, Blue Lake, Calpella, Camino, Crescent Mills, Davenport, Diamond Springs, Fresno, Grass Valley, Healdsburg, Inyokern, Johnsondale, Loomis, Martell, North Fork, Oroville, Sacramento, Santa Fe Springs, Stockton, Susanville, Yreka, and Yuba City, CA to points in TX and OK for 180 days. Supporting shipper(s): Eagle Forest Products, 5671 Warehouse Way, Sacramento, CA 95826. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 115162 (Sub 481 TA), filed April 20, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). *(1) Charcoal, charcoal briquets, vermiculite, active carbon, and hickory chips; and (2) Charcoal lighter fluid, and charcoal grills and accessories* between all points in the United States in and east of ND, SD, NB, KS, OK and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center, East, Atlanta, GA 30346. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616–2121 Building Birmingham, AL 35203.

MC 115523 (Sub-181 TA), filed April, 24, 1979 Applicant: CLARK TANK LINES COMPANY 1450 Beck Street Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same address as applicant). *Sugar, products of corn, and blends thereof,* in bulk, from Ogden, UT to Caldwell, ID; and from Nampa, ID to Billings, Butte, Great Falls and Missoula, MT, La Grande, OR and Spokane and Walla Walla, WA, for 180 days. An underlying ETA requests 90 days authority. Supporting Shipper(s): The Amalgated Sugar Company, P.O. Box 1520, Ogden, UT 84402 Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 115762 (Sub-16 TA), filed April 16, 1979. Applicant: Kentucky Western Truck Lines, Inc., P.O. Box 623, Hopkinsville, KY 42240. Representative: Wm. L. Willis, Attorney, 708 McClure

Bldg., Frankfort, KY 40601. Authority sought to operate as a motor common carrier, over irregular routes, to transport Coiled Steel, from the facilities of J & L Steel, located at or near Hennepin, IL, and Inland Steel Company, located at or near East Chicago, IN, to the facilities of the York Division of Borg Warner at or near Madisonville, KY., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Craig D. Simmons, Purchasing Administrator, York Division of Borg Warner, Island Ford Road, Madisonville, KY 42431. Send protests to: Linda H. Sypher, DS, ICC, 426 Post Office Building, Louisville, KY 40202.

MC 117832 (Sub-3 TA), filed April 17, 1979. Applicant: BILL BRUTON, DBA TRI-WESTERN EXPRESS, No. 8 Westwood Lane, Little Rock, AR 72204. Representative: Bill Bruton (same as applicant). *Pallets plastic film other than cellulose not printed,* from North Little Rock, AR to points in TX, LA, MS, AL and FL, for 180 days as a contract carrier over irregular routes. An Underlying ETA seeks 90 days authority. Supporting shipper(s): Williams Plastics Co., Inc., 309 Phillips Road, North Little Rock, AR 72117. Send protests to: William H. Land, Jr., 3108 Federal Building 700 West Capitol, Little Rock, AR 72201.

MC 119493 (Sub-289TA), filed April 23, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). *Canned Goods,* from Belvidere, IL to MO, OH, TN and MI, for 180 days. SUPPORTING SHIPPER: Green Giant Co., 1100 N. 4th St., Le Sueur, MN 56058. SEND PROTESTS TO: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106. An underlying ETA seeks 90 days authority. Supporting shipper(s): Green Giant Co. 1100 N. 4th St., Le Sueur, MN 56058. Send protests to: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119632 (Sub-94TA), filed April 16, 1979. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Wayne C. Pence (same address as applicant). *Foodstuffs, prepared and preserved (except frozen), cooking oils, shortening and matches,*between the facilities of Hunt-Wesson Foods, Inc. at Rossford, OH on the one hand and points in IL, NY on and west of U.S. Hwy. 11, and WV on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hunt-Wesson Foods, Inc., P.O. Box 127, Rossford, OH 43460. Send protests to: P. J. Crawford, TCS, ICC, 600 Arch St., Rm. 3238, Phila., PA 19106.

MC 119632 (Sub-95TA), filed April 30, 1979. Applicant: REED LINES, INC., 634 Ralston Ave., Definance, OH 43512. Representative: Wayne C. Pence (same address as applicant). *Paper and paper products and equipment, materials, and supplies used in the manufacture of paper and paper products (except in bulk),* between Ashland, Mentor, and Rittman, OH; Griffith, IN; Grand Rapids, MI; Garfield, NJ and Stroudsburg, PA on the one hand and Kansas City, KS, and points in and east of MN, IA, MO, AR, & LA on the other for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Packaging Corporation of America, Industrial St., Rittman, OH 44270. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St. Rm 620, Phila., PA 19106.

MC 123233 (Sub-89TA), filed April 30, 1979. Applicant: PROVOST CARTAGE INC., 7887 Grenache Street, Ville d' Anjou, PQ, Canada H1J 1C4 Representative: J. P. Vermette (same address as applicant). Gypsum products and roofing materials, on flatbed semi-trailers, from the ports of entry on the International Boundary Line between the United States and Canada to points in CT, MA, ME, NH, NJ, NY, PA, RI and VT, for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Canadian Gypsum Company Limited, 790 Bay Street, PO Box 4034, Terminal A, Toronto, ON Canada. Send protests to: ICC, PO Box 548, Montpelier, VT 05602.

MC 124813 (Sub-204 TA), filed April 23, 1979. Applicant: UMTHUN TRUCKING CO., 910 S. Jackson St., Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Scrap metal* from Mason City and Webster City, IA to points in the Chicago, IL commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Webster City Iron & Metal Company, Inc., Hwy 106 W., Mason City, IA 50501. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 133562 (Sub-39 TA), filed April 23, 1979. Applicant: HOLIDAY EXPRESS CORPORATION, P. O. Box 115, Estherville, IA 51334. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. *Meat, meat products, meat by-products and articles distributed by meat packing houses as described in Section A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* from the facilities utilized by John Morrell & Co. at or near Estherville, IA, and Worthington, MN to AZ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 134592 (Sub-19 TA), filed April 16, 1979. Applicant: Herb Moore and Hazel Moore, d/b/a H & H TRUCKING CO., 10360 N. Vancouver Way, Portland, Oregon 97211. Representative: Philip G. Skofstad, P. O. Box 594, Gresham, OR 97030. (1) *Asphalt roofing materials in bundles* from Los Angeles, CA, to Portland, OR; (2) *Lumber and plywood* from points in OR and WA to points in CA. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wood Feathers, Inc., 8414 N. Vancouver Avenue, Portland, OR 97217. Oregon Lumber Export, 1120 Board of Trade Bldg., Portland, OR 97204. Send protests to: R. V. Dubay, DS, ICC, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 135292 (Sub-2 TA), filed April 17, 1979. Applicant: GUY MORRAL, 39 West Ave., Wellsboro, PA 16901. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Sand,* in dump trucks, from Tioga County, PA, to points in NY, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER: Ward Silica Sand Company, Bradford, PA. SEND PROTESTS TO: ICC, William J. Green, Jr. Federal Bldg., 600 Arch St., Philadelphia, PA 19106. Supporting shipper(s): Ward Silica Sand Company, Bradford, PA 16701. Send protests to: ICC 600 Arch St., Philadelphia, PA 19106.

MC 135803 (Sub-2TA), filed April 16, 1979. Applicant: WALLACE TRANSPORT, 9290 E. Hwy. 140 (P.O. Box 67), Planada, CA 95365. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. *Such commodities as are dealt in or used by drug discount and variety stores,* between the facilities of Thrifty Corporation at Sparks, NV, on the one hand, and, on the other, points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thrifty Corporation, 5051 Rodeo Rd., Los Angeles, CA 90016. Send protests to: District Supervisor, 211 Main St., Suite 500, San Francisco, CA 94105. Supporting shipper(s): Thrifty Corporation, 5051 Rodeo Rd., Los Angeles, CA 90016. Send protests to:

District Supervisor, 211 Main St., Suite 500, San Francisco, CA 94105.

MC 136343 (Sub-164TA), filed April 23, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Such commodities as are dealt in or used by manufacturers and distributors of printed matter (except commodities in bulk), from Fairfield, PA, to New York, NY, Kingsport and New Canton, TN, and points in CT, IL, IN, MA, MI, NJ, OH, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arcata Book Group, P.O. Box 711, Kingsport, TN 37662. Send protests to: ICC, Federal Reserve Bank Building, 101 N. Seventh Street, Room 620, Phila., PA 19106.

MC 138732 (Sub-24TA), filed April 17, 1979. Applicant: OSTERKAMP TRUCKING, INC., 764 North Cypress Street, P.O. Box 5546, Orange, CA 92667. Representative: Michael R. Eggleton, 2500 Old Crow Canyon Road, Suite 325, San Ramon, CA 94583. (1) *Resin coated foundry sand, in bags or containers,* from the facilities of C–E Cast Industrial Products at Ione, CA, to points in NV, OR, UT, and WA, and (2) *Olivene sand, in bags,* from Hamilton, WA, to the facilities of C–E Cast Industrial Products at Ione and Oakland, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): C–E Cast Industrial Products, 2401 Poplar Street, Oakland, CA 94607. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 138732 (Sub-25TA), filed April 17, 1979. Applicant: OSTERKAMP TRUCKING, INC., 764 North Cypress Street, P.O. Box 5546, Orange, CA 92667. Representative: Michael R. Eggleton, 2500 Old Crow Canyon Road, Suite 325, San Ramon, CA 94583. *Iron and steel articles,* from the facilities of CF&I Steel Corporation at Pueblo, CO to points in AZ, CA and NV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): CF&I Steel Corporation, P.O. Box 316, Pueblo, CO 81002. Send protests to: Irene Carlos, P.O. Box 1551, Los Angeles, CA 90053.

MC 138882 (Sub-241TA), filed April 24, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Lead and materials, equipment and supplies used in the processing of lead* between the facilities of Cedartown Industries, Inc., at or near Cedartown, GA, on the one hand, and, on the other, points in the United States, for 180 days. Supporting shipper(s): Cedartown Industries, Inc., P.O. Box 1674, Cedartown, GA 30125. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 138902 (Sub-14TA), filed April 26, 1979. Applicant: ERB TRANSPORTATION COMPANY, INC., P.O. Box 65, Crozet, VA 22932. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. *Bananas,* from Norfolk, VA and points in its commercial zone to points in VA, NC, SC, GA, OH, IN, KY, IL, WI, MI, and AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Best Banana Company, 3616 E. Virginia Beach Blvd., Norfolk, VA 23502. Send protests to: Paul D. Collins, DS, ICC, Room 10–502 Federal Bldg., 4000 North 8th St., Richmond, VA 23240.

MC 138902 (Sub-15TA), filed April 6, 1979. Applicant: ERB TRANSPORTATION COMPANY, INC., P.O. Box 65, Crozet, VA 22932. Representative: Harry C. Ames, Jr., Suite 805, 666 Eleventh Street NW., Washington, D.C. 20001. *Plastic film* in vehicles equipped with mechanical refrigeration, from the facilities of Reynolds Metals Company at or near Grottoes, VA, to AL, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NJ, NY, OH, OK, PA, RI, SC, TN, TX, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Reynolds Metals Company, P.O. Box 27003, Richmond, VA 23261. Send protests to: Charles F. Myers, DS, ICC, Rm. 10–502 Federal Bldg., 400 North 8th Street, Richmond, VA 23240.

MC 139482 (Sub-120TA), filed April 25, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: Samuel Rubenstein/David Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Foodstuffs, except commodities in bulk,* from the facilities utilized by the Green Giant Company located in MN to all points in IL and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Green Giant Company, LeSueur, MN 56058. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 139482 (Sub-127TA), filed April 23, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Fiberboard boxes* from St. Louis, MO and points in its commercial zone to Sibley, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Container Corporation of America, P.O. Box 1441, Fort Worth, TX 76119. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 140563 (Sub-34TA), filed April 24, 1979. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Copper tubing* from Atlanta, GA, Pine Hall, NC and Richmond, VA to points in AL, FL, GA, MD, NC, SC and VA for 180 days. An ETA seeks 90 days authority. Supporting shipper(s): Cambridge-Lee Industries, Inc., 14 Perimeter Park, Atlanta, Ga 30341. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 140633 (Sub-3TA), filed April 18, 1979. Applicant: CAPITAL PARCEL DELIVERY COMPANY, P.O. Box 16115, Sacramento, CA 95816. Representative: John Paul Fischer, Silver, Rosen, Fischer & Stecher, 256 Montgomery Street, San Francisco, CA 94104. *Contract* carrier, irregular routes: *Commodities dealt with or used by retail department stores and mail order houses* under contract(s) with Macy's California, of San Francisco, CA, between San Francisco, CA and Reno, NV and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Macy's California, P.O. Box 7888, San Francisco, CA 94120. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 141033 (Sub-53TA), filed April 23, 1979. Applicant: CONTINENTAL CONTRACT CARRIER CORPORATION, 15045 E. Salt Lake Avenue, P.O. Box 1257, City of Industry, CA 91749. Representative: James I. Mendenhall, (same address as applicant). *Carpet strips, molding, staples, tools, nails, adhesives, sealants, solvents, stains, wood preservatives and materials, equipment and supplies used in the manufacture, sale and distribution of the above named commodities,* from Calexico, CA to all points in the United States, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Roberts Consolidated Industries, Inc., 600 N. Baldwin Park Blvd., City of Industry, CA 91749. Send

protests to: Irene Carlos, P.O. Box 1551, Los Angeles, CA 90053.

MC 141252 (Sub-6TA), filed April 6, 1979. Applicant: PAN WESTERN CORPORATION, 4105 Las Lomas Avenue, Las Vegas, NV 89102. Representative: Richard Truman (same as applicant). *Gypsum wallboard, lath and Lime in sacks,* from the plant site of Flintkote at Blue Diamond (Clark County), NV to points in CA and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Flintkote Company, 2201 E. Washington Blvd., Los Angeles, CA 90021. Send protests to: W. J. Huetig, DS, ICC, 203 Federal Building, 705 N. Plaza St., Carson City, NV 89701.

MC 141443 (Sub-18TA), filed April 25, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 Denton Street, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615–East, The Oil Center, 2601 Northwest Expressway, Oklahoma, OK 73112. *Such commodities as are dealt in and used by wholesale, retail, discount and variety stores,* (except commodities in bulk), from points in CA, to the facilities of Wal-Mart Stores, Inc., at or near Bentonville, Searcy, and Ft. Smith, AR, for 180 days. Supporting shipper(s): Wal-Mart Stores, Inc., Box 116, Bentonville, AR 72712. Send protests to: District Supervisor, ICC, Room 240, 215 N.W. 3rd, Oklahoma, City, OK 73102.

MC 143032 (Sub-22TA), filed April 23, 1979. Applicant: THOMAS J. WALCZYNSKI, d.b.a. Walco Transport, 3112 Truck Center Drive, Duluth, MN 55806. Representative: William J. Gambucci, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. *Iron and steel articles* from Sterling and Rock Falls, IL, to points in MN and ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Northwestern Steel & Wire Company, 121 Wallace Street, Sterling, IL 61081. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 144452 (Sub-11TA), filed April 26, 1979. Applicant: ARLEN LINDQUIST, d.b.a. Arlen E. Lindquist Trucking, 3242 Old Highway 8, Minneapolis, MN 55418. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. *Petroleum and petroleum products in containers,* from (1) Roxana, IL to points in WI except Baraboo, Portage, DeForest, Richland Center, Lyndon Station, Dodgeville, Plain, Wisconsin Dells, Shawano, Waupaca, Stevens Point, Wisconsin Rapids, Marshfield, Colby, Beaver Dam, Green Lake, Waupun, Seymour, Oconto Falls, Merrill, Eagle River, Rhinelander, Chippewa Falls, Wausau, Mellon and Antigo and to points in the upper peninsula of MI; and (2) St. Louis, MO to points in WI and the upper peninsula of MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Deere Company, 2001 West 94th Street, P.O. Box 855, Minneapolis, MN 55440. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 144452 (Sub-12TA), filed April 26, 1979. Applicant: ARLEN LINDQUIST, d.b.a. Arlen E. Lindquist Trucking, 3242 Old Highway 8, Minneapolis, MN 55418. Representative: William J. Gambucci, 414 Gate City Building, P.O. Box 1680, Fargo, ND. 58107. *Iron and steel articles* from the Chicago, IL commercial zone to the Minneapolis, MN commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Roll Tank Co., Inc., 7901 Fuller Road, Eden Prairie, MN 55344. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 144503 (Sub-14TA), filed April 24, 1979. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Meats, meat products, and meat by-products, and articles distributed by meat packing houses* from the facilities of Wilson Foods Corp. located at Albert Lea, MN, Des Moines, IA and Marshall, MO to points in AL, FL, GA, NC, and SC for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Wilson Foods Corporation, 4545 Lincoln Boulevard, Oklahoma City, OK 73105. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 144572 (Sub-14TA), filed April 4, 1979, and previously published in the FR issue of May 8, 1979, and republished as corrected this issue. Applicant: MONFORT TRANSPORTATION CO., P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. *Packaged chemicals,* (1) from points in CA, CT, DE, FL, GA, IL, IA, KS, KY, LA, MD, MI, MS, MO, NV, NJ, NY, NC, OH, OR, PA, TN, WA, WV, and WI to points in Denver and Grand Junction, CO; and (2) from points in the states set forth in (1) above, with the exception of CA, to points in CA, for 180 days. (1) Restricted against the transportation of commodities in bulk; and (2) restricted to traffic originating at or destined to the facilities of Foremost-McKesson, Inc. An underlying ETA seeks 90 days of authority. Supporting Shipper(s): Foremost-McKesson, Inc., Crocker Plaza, One Post St., San Francisco, CA 94104. Send protest to: Roger L. Buchanan, DS, ICC, 721 19th St., 492 U.S. Customs House, Denver, CO 80202. The purpose of this republication is to correctly show the territorial scope and to also add the two restrictions as previously omitted.

MC 144572 (Sub-18TA), filed April 25, 1979. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. *Merchandise sold in retail drug stores,* except pharmaceuticals and drugs, from Los Angeles, CA to Denver, CO for 180 days. RESTRICTIONS: (1) Restricted to traffic originating at and destined to the facilities of Valu-Rite Pharmacies, Inc., a wholly owned subsidiary of Foremost-McKesson, Inc.; and (2) restricted against the transportation of commodities in bulk. Applicant seeks 90 days authority in underlying ETA. Supporting Shipper(s): Valu-Rite Pharmacies, Inc., Crocker Plaza, One Post Street, San Francisco, CA 94104. Send protests to: D/S Roger L. Buchanan, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 144592 (Sub-4TA), filed April 19, 1979. Applicant: WAYDENS HEAVY HAULERS, INC., 251 Fifth Street, Hiawatha, IA 52233. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract authority. *Stone, gravel, ore and clay processing equipment and parts,* from the facilities of Eagle Iron Works at Des Moines, IA to points in the United States in and east of ND, SD, NE, CO, OK and TX, under continuing contract(s) with Eagle Iron Works for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Eagle Iron Works, 129 Holcomb Avenue, Des Moines, IA 50313. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 144622 (Sub-68TA), filed April 19, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representatives: Phillip G. Glenn, (same as applicant). Theodore Polydoroff, 1307 Dolley Madison Boulevard, McLean, VA 22101. *Petroleum and petroleum products, vehicle body sealers and sound deadener compounds* (except in bulk), from New Kensington, North Warren, Emlenton and Farmers Valley, PA, and Congo and St. Marys, WV, to all points

in AR, MO, MS, LA and TX, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Quaker State Oil Refining Corporation, P.O. Box 989, Oil City, PA 16301. Send protests to: William H. Land, Jr., 3108 Federal Building, 700 West Capitol, Little Rock, AR 72201.

MC 144622 (Sub-69TA), filed April 18, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representatives: Phillip G. Glenn, (same as applicant). Theodore Polydoroff, 1307 Dolley Madison Boulevard, Suite 301, McLean, VA 22101. *Lighting fixtures* (fluorescent—high intensity discharge) with equipment or electric apparatus, with or without lamps, from the facilities of Gibson-Metalux Corporation at or near Americus, GA to and between all points in the United States (except AK and HI), for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Gibson-Metalux Corporation, P.O. Box 1207, Americus, GA 31709. Send protests to: William H. Land, Jr., 3108 Federal Building, 700 West Capitol, Little Rock, AR 72201.

MC 144622 (Sub-70TA), filed April 18, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representatives: Phillip G. Glenn, (same as applicant). Theodore Polydoroff, 1307 Dolley Madison Boulevard, Suite 301, McLean, VA 22101. *Ground clay* from the plantsite of Lowe's, Inc. at or near Bloomfield, MO and Olmsted, IL to points in AR, KS, OK, NE and TX, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Lowe's, Inc., 348 So. Columbia Street, South Bend, IN 46601. Send protests to: William H. Land, Jr., 3108 Federal Building, 700 West Capitol, Little Rock, AR 72201.

MC 144643 (Sub-5TA), filed April 18, 1979. Applicant: VINGI BROTHERS TRUCKING CO., INC., 28 Oakale Avenue, Johnston, RI 02919. Representative: Ronald N. Cobert, Suite 501—1730 M Street NW., Washington, DC 20036. Contract-irregular, *Food stuffs, lime juice, grenadine* and *cocktail mixes (non-alcoholic),* from Warwick, RI, to points in GA, FL, LA, TX and TN, restricted to a transportation service to be provided under a continuing contract or contracts with Cadbury Schweppes USA, Ltd., or its subsidiary, Jefferson Bottling Co., of Warwick, RI, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Cadbury Schweppes USA, Ltd., Jefferson Bottling Co., 101 Jefferson Boulevard, Warwick, RI 02888. Send protests to: Gerald H. Curry, DS, 24 Weybosset Street, Room 102, Providence, RI 02903.

MC 144682 (Sub-12TA), filed April 26, 1979. Applicant: R. R. STANLEY, P.O. Box 95, Mesquite, TX 75149. Representative: D. Paul Stafford, Winkle and Wells, Suite 1125, Exchange Part, P.O. Box 45538, Dallas, TX 75245. *Prepared Foodstuffs (except commodities in bulk), in vehicles equipped with mechanical refrigeration,* from the plantsite of The Pillsbury Company at Denison, TX, to points in the states of AZ, CA, CO, ID, MT, NE, NV, NM, OR, UT, SD, and WA for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Pillsbury Co., 608 Second Avenue South, Minneapolis, MN 55402. Send protests to: Opal M. Jones, ICC, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 145072 (Sub-16TA), filed April 18, 1979. Applicant: M. S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: A. Doyle Cloyd, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Tires, tubes, wheels, rims, caps, and lug nuts,* from Memphis, TN and its commercial zone to points in MI, OH, PA, NY, IA and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Tire and Battery Corporation, 4770 Hickory Hill Road, Memphis, TN 38118. Send protests to: Floyd A. Johnson, DS, JCC, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 145102 (Sub-29TA), filed April 24, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Michael Wyngaard, 150 E. Gilman Street, Madison, WI 53703. *Such commodities as are manufactured, processed, sold, used, distributed or dealt in by manufacturers, converters and printers, of paper and paper products* (except commodities in bulk) from Riverside Paper Corp. at or near Appleton, WI to points in CA, OR, WA, NV, AZ, UT, ID, MY, WY, CO & NM, for 180 days. An underlying EA seeks 90 days authority. Supporting Shipper(s): Riverside Paper Corp., P.O. Box 179, Appleton, WI 54912, Send protests to: Gail Daugherty, TA, 517 E. Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 145152 (Sub-76TA) filed April 17, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Iron and steel pipe fittings* from the facilities of Tube-Line Corporation, at or near Long Island City, NY, to points in the United States, (except AK, HI and NY), for 180 days as a common carrier over irregular routes. An underlying GTA seeks 90 days authority. Supporting Shipper(s): Tube-Line Corporation, 48–11 20th Avenue, Long Island City, NY 11105. Send protests to: William H. Land, Jr., 3108 Federal Building, 700 West Capitol, Little Rock, AR 72201.

MC 145382 (Sub-1 TA), filed April 4, 1979. Applicant: Rose-Way, Inc., 1914 E. Euclid, Des Moines, IA 50306. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Lumber and lumber products,* (1) Samoa, Chester and Turlock, CA to points in IL, IN, and MO, and (2) from Scotia, CA to points in IN and MO for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Interstate Lumber Co., P.O. Box 122, Danville, IL 61832. Send protests to: Herbert W. Allen, DS, ICC, 518 Fedeal Building, Des Moines, IA 50309.

MC 14502 (Sub–5TA), filed April 17, 1979. Applicant: LAKE LINE EXPRESS, INC., P.O. Box 1021, Appleton, WI 54912. Representative: Nancy Johnson, 103 E. Washington Street, Crandon, WI 54520. *Paper and paper products* from Brokaw, WI to points in MN, MI, IL (except in Cook County), IN, IA, OH & MO, for 180 days. An unerlying ETA seeks 90 days authority. Supporting Shipper(s): Wausau Paper Mills Co., Brokaw, WI 54417. Send protests to: Gail Daugherty, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 146082 (Sub-1TA), filed February 8, 1979. Applicant: DAN MONTANA, d.b.a., MONTANA BUILDING MATERIALS, P.O. Box 10215, Albuquerque, NM 87114. Representative: Jeannie Montana (same as applicant). *Contract carrier:* irregular routes: *Gypsum wallboard,* from Albuquerque, NM, to Tucson, AZ, for the account of Apache Dry Wall, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Apache Dry Wall, Inc., 3755 N. Runway Drive, Tucson, AZ 85714. Send protests to: DS, ICC, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

MC 146193 (Sub-3TA), filed April 17, 1979. Applicant: CAMPBELL GRAIN CORPORATION, P.O. Box 94, Humeston, IA 50123. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. (1) Fertilizer from the facilities utilized by Kaiser Agricultural Chemicals at East

Dubuque and Cordova, IL; Alexandria and Hannibal, MO, and South Sioux City and Omaha, NE, to points in IA; and from White Cloud, KS to Elk Creek; Falls City, and Auburn, NE, and Plattsburg and Cameron, MO; and from East Dubuque, IL to Clinton, WI and Leroy, MN; and (2) nitrogen solution in bulk from Hoag and LaPlatte, NE to points in IA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Carpenter Sales, 10825 N.E. Hubbell, Bondurant, IA 50035. Kaiser Agricultural Chemicals, 1025 Ashworth Road, Suite 522, West Des Moines, IA 50265. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 146302 (Sub-2TA), filed March 19, 1979. Applicant: ROBERT KOLBECK, d.b.a. KOLBECK TRUCKING, Route 2; 3977 County Highway J North, Schofield, WI 54476. Representative: Nancy Johnson, Route 1, Box 169C, Crandon, WI 54520. *Sawdust, wood waste residue, and commodities exempt from economic regulation* under Section 10526(a)(6)(C) of the Act when moving in mixed loads with sawdust and wood waste residue from Caspian, MI to Goodman, Kimberly, Marshfield, Rothschild and Tomahawk, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Caspian Wood Products, Box 288, Caspian, MI 49915. Send protests to: Gail Daugherty, TA, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 146302 (Sub-3TA), filed March 20, 1979. Applicant: ROBERT KOLBECK, d.b.a. KOLBECK TRUCKING, Route 2; 3977 County Highway J North, Schofield, WI 54476. Representative: Nancy Johnson, Route 1, Box 169C, Crandon, WI 54520. *Sawdust, wood waste residue, and commodities exempt from economic regulation* under Section 10526(a)(6)(C) of the Act when moving in mixed loads with sawdust and wood waste residue from Bessemer, MI to Marshfield, Tomahawk and Rothschild, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Iron Wood Products Corp., P.O. Box 26, Bessemer, MI 49911. Send protests to: Gail Daugherty, TA, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 146423 (Sub-3TA), filed April 17, 1979. Applicant: STEPHEN HROBUCHAK d.b.a. TRANS-CONTINENTAL REFRIGERATED LINES, P.O. Box 1456, Scranton, PA 18501. Representative: Joseph F. Hoary, 121 S. Main Street, Taylor, PA 18517. *Wite products and dishwasher racks,* from Wilkes-Barre, PA, to Dallas, TX, and Cucamongo, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Metropolitan Wire Company, N. Washington Ave. & George Street, Wilkes-Barre, PA 18702. Send protests to: ICC, 600 Arch Street, Philadelphia, PA 19106.

MC 146573 (Sub-3TA), filed April 25, 1979. Applicant: LA SALLE TRUCKING, INC., P.O. Box 46, Peru, IL 61354. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh Street N.W. Washington, D.C. 20001. *Plastic materials (except in bulk),* from Ottawa, IL to points in NY, DE, MD, IN, NJ, PA, MI and OH, for 180 days. Supporting shipper(s): American Hoechst Corp., P.O. Box 338, Ottawa, IL 61350. Send protests to: Annie Booker, TA, ICC, 1386 Dirksen Bldg., 219 So. Dearborn St., Chicago, IL 60604.

MC 146582 (Sub-3TA), filed April 6, 1979. Applicant: MICHAEL E. FLYNN and WILMA L. FLYNN d.b.a. FLYNN ENTERPRISES, 4840 Fuentes Circle, Las Vegas, NV 89121. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Contract carrier:* irregular routes: *Hotel, Restaurant, and Institutional Foods and Supplies,* between Washoe and Clark Counties, NV, Marion County, OR, and points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Foodservice, P.O. Box 14970, Las Vegas, NV 89114. Send protests to: W.J. Huetig DS, 705 N. Plaza St., 203 Federal Bldg., Carson City, NV 89701.

MC 146682 (Sub-1TA), filed April 18, 1979. Applicant: JAMES SAX, INC., 401 N. Broad St., Elkhorn, WI 53121. Representative: A.R. Hanson, P.O. Box 1229, Madison, WI 53701. *Contract carrier;* irregular routes; *Detergents, paper products, janitorial supplies and equipment and raw materials, including silica, phosphates and basic chemicals, used in the manufacture of said detergents and janitorial supplies,* between Elkhorn, WI on the one hand, and on the other, points in IL on and North of U.S. Hwy. 136, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Elkhorn Chemical Co., Inc., 1 Elko Lane, Elkhorn, WI 53121. Send protests to: Gail Daugherty, TA, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 146782 (Sub-1TA), filed April 30, 1979. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Ave, South, Nashville, TN 37201. Representative: Stephen L. Edwards, 806 Nashville Bank and Trust Bldg., Nashville, TN 37201. *Iron and steel articles* from the various plantsites of Jones & Laughlin Steel Corporation at (1) Aliquippa, PA, (2) Pittsburgh, PA, and (3) Indiana Harbor, IN, to points in GA, KY and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jones & Laughlin Steel Corporation, Room 121, 1600 West Carson Street, Pittsburgh, PA 15263. Send protests to: Glenda Kuss, TA, ICC Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 146782 (Sub-3TA), filed April 24, 1979. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, TN 37201. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., Nashville, TN 37201. *Welded steel tubing* from the facilities of Welded Tube Company of America at or near Chicago, IL to points in TN, KY, AL, GA, NC, SC, FL, TX, LA, MS, and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Welded Tube Co. of America, 1855 E. 122nd St., Chicago, IL 60655. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 146783 (Sub-1TA), filed April 18, 1979. Applicant: S & L TRANSPORTATION. INC., 59–21, 156th Street, Flushing, NY 11355. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, *Copper, brass, and other alloys in bars, sheets, strips, and rods,* from the piers in New York Harbor, NY; New Orleans, LA, and Houston, TX, to customers of Browning Metals Corporation at Hudson, Bergen, Passaic, Essex, Union, Morris, Middlesex, and Somerset Counties, NJ; Beacon Falls, Manchester, Meridan, Newton, Plainville, Thomaston, Torrington, Williamatic, and Woodbury, CT; Northampton, South Hadley, and Worcester, MA; Winona, MN; Cincinnati and Covington, OH; Providence, RI; and Milwaukee, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Browning Metals Corporation, 330 Madison Avenue, New York, NY 10017. Send protests to: Maria B. Kejss, TA, ICC, 26 Federal Plaza, New York, NY 10007.

MC 146792 (Sub-1TA), filed April 20, 1979. Applicant: H. WESLEY HOWERTON d.b.a. OASIS LINES, 805 North Cage St., Pharr, TX 78577. Representative: H. Wesley Howerton, 805 North Cage St., Pharr, TX 78577. *Charcoal, charcoal briquets, charcoal brix, charcoal lumps, lighter fluid and hickory chips* from Pachuta, MS and Branson, MO to points in AR, LA, OK, TX, NM, and AZ, for 180 days. An underlying ETA seeks 90 days authority.

Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: Richard H. Dawkins, DS, ICC, Room B-400, Federal Building, 727 E. Durango, San Antonio, TX 78206.

MC 146803 (Sub-1TA), filed April 25, 1979. Applicant: WILLIAMS PAPER COMPANY, INC., 934 N. 1st St., St. Louis, MO 63102. Representative: Thomas D. Wilson (same as applicant). *Contract carrier,* irregular routes: *Candy,* (except in bulk) in vans and temperature controlled equipment between the facilities of Switzer Candy Company, at or near St. Louis, MO on the one hand, and, on the other, to points in the states of CT, MA, NJ, NY, OH, RI, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Switzer Candy Company, 1600 North Broadway, St. Louis, MO 63102. Send protests to: P. E. Binder, OC, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 146813 (Sub-1TA), filed April 17, 1979. Applicant: A. M. DELIVERY, INC., 2756 Plano, Rowland Heights, CA 91748. Representative: Milton W. Flack, 4311 Wilshire Blvd., No. 300, Los Angeles, CA 90010. *Contract:* irregular: *Cleaning compounds, petroleum and petroleum products, and corrosive products (except commodities in bulk),* from the facilities of DuBois Chemicals, Division of Chemed Corporation, located at City of Industry, CA, to Phoenix, AZ; Billings, MT; Las Vegas, NV; Portland, OR; Salt Lake City, UT; and Seattle and Spokane, WA, under a continuing contract with DuBois Chemicals of City of Industry, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shippers(s): DuBois Chemicals, 15010 E. Don Julian Road, City of Industry, CA 91749. Send protests to: Irene Carlos, P.O. Box 1551, Los Angeles, CA 90053.

MC 146822 (Sub-1TA), filed April 17, 1979. Applicant: EUGENE L. FRAZIER d.b.a. SUNSET TRANSPORT SYSTEMS, 2200 No. Parmalee, Compton, CA 90222. Representative: Milton W. Flack, 4311 Wilshire Blvd., No. 300, Los Angeles, CA 90010. *Such commodities as are distributed or dealt in by home improvement centers (except commodities in bulk),* from the facilities of Color Tile Supermarts, Inc., located at Carson, CA, to Boise and Idaho Falls, ID; Billings and Great Falls, MT; Las Vegas and Reno, NV; Albuquerque, N;M; EL Paso, TX; and points in AZ, OR, UT and WA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Color Tile Supermarts, Inc., P.O. Box 2475, Fort Worth, TX 76101. Send protests to: Irene Carlos, P.O. Box 1551, Los Angeles, CA 90053.

MC 146842 (Sub-1TA), filed April 30, 1979. Applicant: BELL TRUCKING CO., INC., Route 1, Box 81-H, Jonesboro, LA 71251. Representative: James M. Duckett, 927 Pyramid Life Building, Little Rock, AR 72201. *Lumber and plywood,* from Ada and Minden, LA to all points in TX, OK, AR, MO, MS, and TN, under contract, or continuing contracts, with Woodard & Walker Lumber Company, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Woodard-Walker Lumber Co., Inc., General Delivery, Taylor, LA 71080. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 146872 (Sub-1TA), filed April 24, 1979. Applicant: CHARLES SEATON, d.b.a. SEATON TRUCKING, 1560 North Sandburg Village, Chicago, IL 60610. Representative: Joel H. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Scrap paper, scrap plastic and scrap wood,* between points in IA, IL, IN, KY, MI, TN, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Paper Recycling Corp., 301 West Lake Street, Northlake, IL 60164. Send protests to: Annie Booker, TA, ICC, 1386 Dirksen Bldg., 219 So. Dearborn St., Chicago, IL 60604.

MC 146892 (Sub-1TA), filed April 25, 1979. Applicant: R & L TRANSFER, INC., P.O. Box 271, Wilmington, OH 45177. Representative: Boyd B. Ferris, Muldoon, Pemberton & Ferris, 50 W. Broad St., Columbus, OH 43215. *(1) Automotive parts* from Hillsboro, OH, to Flint and Pontiac, MI, and Dayton, OH; and *(2) materials, equipment and supplies (except in bulk) used in the manufacture of automotive parts* from Flint and Pontiac, MI, and Dayton, OH, to Hillsboro, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Hillsboro Manufacturing Co., Lloyd Ludwick, 120 Moore Rd., Hillsboro, OH. Send protests to: ICC, 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 146952 (Sub-1TA), filed April 26, 1979. Applicant: COUNTRY PRIDE FOODS LTD., 422 North Washington, El Dorado, AR 71730. Representative: Herbert Alan Dubin, Sullivan & Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. *Plastic articles, stepstools, handcarts, and dollies,* from the facilities of Dial Industries, Inc., located at or near Los Angeles, CA to points in AR, IL, IA, KS, LA, MO, NE, OK and TX, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper: Dial Industries, Inc., 1538 Esperanza, Los Angeles, CA 90023. Send protests to: William H. Land, Jr., D/S 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 146982 (Sub-1TA), filed April 27,1979. Applicant: D. J. LEE CO., INC., Rt. 1, Vesper, WI 54489. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Such commodities as are manufactured, processed, sold, used, distributed or dealt in by manufacturers, converters and printers of paper and paper products* (except commodities in bulk) from facilities of Consolidated Papers, Inc. at or near Wisconsin Rapids, Biron and Stevens Points, WI to points in MI, MO, & OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Consolidated Papers, Inc., Wisconsin Rapids, WI 55494. Send protests to: Gail Dougherty, TA, ICC, 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 5302.

MC 146992 (Sub-1TA), filed April 24, 1979. Applicant: PHIL-MART TRANSPORTATION, INC., P.O. Box 126, Braselton, GA 30517. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. *Meat, meat products, meat by-products and articles distributed by meat packinghouses* between the facilities of Lauridsen Foods, Inc. located at or near Britt, IA and the facilities of Armour and Company at or near Mason City, IA, on the one hand, and, on the other, points, in AL, FL, GA, IL, KY, LA, MS, NC, SC and TN restricted to the transportation of traffic originating at or destined to the facilities of Lauridsen Foods, Inc. at or near Britt, IA and/or the facilities of Armour and Company at or near Mason City, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour and Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, GA 30309.

MC 147002 (Sub-1TA), filed April 30, 1979. Applicant: BELUGA TRUCKING, INC., 11110 W. 6th Avenue, Suite 208, Anchorage, AK 99501. Representative: Carol Johnson, 1125 W. 7th Ave., Anchorage, AK 99501. *Contract carrier:* irregular routes: *General commodities, except Class A and B explosives,* between points and places in Anchorage, AK and Zone 2-B as described by the Alaska Transportation Commission, more particularly described as all of the area of Alaska South of 64 degrees N. latitude and W.

of an imaginary line between drawn between the mouth of the Susitna River and northerly to the intersection of 64 degrees latitude and 151 degrees 30' W longitude, excluding points on the Kenai Peninsula lying south of an imaginary East-West line drawn between Girwood (and including Girwood) and Port Wells, and all of the island from and including Shuyak Island on the north, Trinity Islands on the south, Chalikoff Straight on the west, and Marmot Island on the East, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Maynard R. Smith Const. Co., P.O. Box 1953, Anchorage, AK 99510. C. R. Lewis Co., Inc., 1500 Post Rd., Anchorage, AK 99501. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-20374 Filed 6-29-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 128
Monday, July 2, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-230, Amdt. 1; June 26, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the June 28, 1979, meeting.

TIME AND DATE: 9:30 a.m., June 28, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

8a. Dockets 35102, 35289, 35282, 35298, 35286, 35277, 35303, and 35295: (Denver-Hawaii Show-cause Proceeding, United's application); (Braniff), (Delta), (Hawaiian), (Northwest), (Ozark), (TIA), (TWA); Applications for Denver-Honolulu/ Hilo authority (Memo 8593-A, BDA).

14a. Docket 35797, National's Emergency Exemption Application to suspend service at three foreign and three domestic points without filing a notice under section 401 (j) of the Act, due to the DC-10 grounding emergency (BDA 8941).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 8a is being added to the June 28, 1979 agenda in order for the Board to act as quickly as possible in granting new authority to markets with a lot of traffic because the DC-10 grounding emergency has curtailed travel. Item 14a is of immediate importance to the traveling public at Norfolk, and since the application resulted from the DC-10 grounding emergency, immediate action is required. Accordingly, the following Members have voted that agency business requires the addition of Items 8a and 14a to the June 28, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1289-79 Filed 6-28-79; 10:28 am]

BILLING CODE 6320-01-M

2

[M-230, Amdt. 2; June 26, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the June 28, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m., June 28, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

22. Petition of Hawaiian Airlines for a rulemaking proceeding to increase the minimum rates for Logair and Quicktrans Services (Memo 8923, BDA, OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 22 is being deleted from the June 28, 1979 agenda so that additional staff work may be done in light of a new petition for minimum rate revision filed in Docket 35866. Accordingly, the following Members have voted that agency business requires the deletion of Item 22 from the June 28, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1290-79 Filed 6-28-79; 10:28 am]

BILLING CODE 6320-01-M

3

[M-230, Amdt. 3; June 27, 1979]

CIVIL AERONAUTICS BOARD.

Notice of Deletion of items from the June 28, 1979, meeting.

TIME AND DATE: 9:30 a.m., June 28, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

23. Docket 23080-2, *Priority and Nonpriority Domestic Service Mail Rates Investigation*—Draft order on reconsideration of the Board's final decision in Order 78-11-80, and draft order to show cause proposing updated final rates for the period July 1, 1979, through December 31, 1979. (OGC)

24. Docket 26487, *Transatlantic, Transpacific and Latin American Service Mail Rates Investigation*—Draft order on reconsideration of the Board's final decision in Order 78-12-159, and draft order to show cause proposing updated final rates for the period July 1, 1979, through December 31, 1979 (OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Due to the additional workload occasioned by oral arguments in the pending merger/ acquisition cases, several Board Members have requested additional time to consider the staff recommendations in the pending mail cases, *i.e.* Docket 23080-2 and Docket 26487. These two items will be rescheduled for the July 3, 1979 meeting. Accordingly, the following Members have voted that agency business requires the deletion of items 23 and 24 from the June 28, 1979 agenda and that no earlier announcement of these deletions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member Elizabeth E. Bailey
Member, Gloria Schaffer

[S-1291-79 Filed 6-28-79; 10:28 am]

BILLING CODE 6320-01-M

4

[M-231, June 26, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., July 3, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Dockets 29525 and 30332; Disposition of the Board's tentative findings in Order 76-11-9, which would apply the domestic substitute service rules to the U.S. legs of international air freight movements; IATA agreement proposing restrictions on the use of surface transportation on the U.S. legs of South Pacific air freight movements. (BIA)

3. Part 211, elimination of diplomatic routing requirement for foreign air carrier permit applications and elimination of repetitious regulation requiring environmental evaluations. Part 302, requirement that 402 applicants notify the Department of State of applications to the Board. (BIA, OGC)

4. Cancellation by British Caledonian of its tariff rules for denied-boarding practices on inbound United States flights. (Memo No. 8935, BDA, OGC)

5. Dockets 33125, 33335, 34891, 34919, 34924, 34935, 34938, 35045, and 35072; American's petition for reconsideration of Order 79–5–75 and finalization of route awards deferred by Order 79–5–75. (Memo No. 8469–C, BDA)

6. Dockets 35103, 34062, 35278, 35287, 35288, 35296, 35297, 35303, 35312, and 35313; Applications for nonstop authority between Chicago/San Diego-Honolulu. (Memo No. 8594–B, BDA)

7. Dockets 35157, 32260, 32291, 32384, 35336, 33309, 33403, 33541, 33600, 33633, 34532, 35313, 35312, 35343, 35030, 35348, 35342, 35349, 35345, and 35199; Applications of TWA, American, Northwest, Hawaiian, World, Trans International, Braniff, Aeroamerica, DHL, Trans Carib, Continental, Delta, Eastern, Ozark, PSA, Western, and National for certificate amendments authorizing, in whole or in part, nonstop service between Honolulu, on the one hand, and the alternate terminal points Los Angeles, Ontario, Long Beach, San Francisco, Oakland, San Jose, San Diego, St. Louis and Kansas City. (BDA)

8. Dockets 34527 and 34824; Southwest's application requesting, with two limited exceptions, that the Texas Aeronautics Commission be permitted to continue to regulate Southwest's intrastate system even though the carrier has been granted interstate authority; Southwest's application for temporary relief, seeking (1) a general exemption from the provisions of Title IV of the Act concerning intrastate flights and passengers; and (2) an exemption concerning interstate flights and passengers so that Southwest may use its existing ticket stock and ticketing procedures without complying fully with the ticket notice requirements of our regulations with respect to baggage liability limitations and overbooking of flights. (Memo No. 8940, BDA)

9. Dockets 24420, 30595, and 31726; application of Forrest N. Shumway and Transamerica Corporation for renewal of approval of interlocking relationships under Section 409(a) of the Act; application of Hobart Taylor, Jr., and Eastern Air Lines for approval of interlocking relationships under § 409(a); and application of Carla A. Hills and American Airlines for disclaimer of jurisdiction or approval of an interlocking relationship under § 409(a). (Memo No. 7197–E, BDA, OGC)

10. Docket 32947, Application of Wright Airlines, Inc., *et al.*, for approval of acquisition of control. (BDA)

11. Docket 35446, Petition of Suntours, Ltd. and Council on International Educational Exchange for review of staff action taken in Order 79–5–2. (BDA)

12. Docket 27591, Termination of Docket 27591, Rulemaking on liquidated damages for lost, damaged or delayed baggage. (OGC)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

[S–1292–79 Filed 6–28–79; 10:28 am]

BILLING CODE 6320–01–M

5

[M–231, Amdt. 1; June 28, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion and addition of items to the July 3, 1979, agenda.

TIME AND DATE: 10 a.m., July 3, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Delete: 10. Docket 32947, Application of Wright Airlines, Inc., *et al.*, for approval of acquisition of control (BDA).

Add: 9a. Docket 34762; Application of Andrall E. Pearson and Trans World Airlines, Inc. (TWA) for approval of interlocking relationships involving TWA and PepsiCo., Inc. (PepsiCo) and for disclaimer of jurisdiction over those involving TWA and Trans World Corporation (TWC): (BDA).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: Item 10 was inadvertently placed on the July 3, 1979 agenda. This item is on the June 28, 1979 agenda as Item 19. Item 9a is being added to the July 3, 1979 agenda based on recent discussions with the air carrier applicant in the case, the staff concludes that it is important that Mr. Pearson be permitted to participate in the affairs of Trans World Airlines, Inc. as soon as possible. Mr Pearson may not do so until the subject interlocking relationships are approved by the Board. Accordingly, the following Members have voted that agency business requires the addition of Item 9a and the deletion of Item 10 from the July 3, 1979 agenda and that no earlier announcement of these changes was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S–1296–79 Filed 6–28–79; 3:31 pm]

BILLING CODE 6320–01–M

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[M–231, Admt.2; June 28, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the July 3, 1979, meeting agenda.

TIME AND DATE: 10 a.m., July 3, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

8a. Docket 34774—Interim Essential Air Transportation at Enid, Ponca City, McAlester and Stillwater Oklahoma, and Paris, Texas (BDA).

13. Docket 23080–2, Priority and Nonpriority Domestic Service Mail Rates Investigation—Draft order on reconsideration of the Board's final decision in Order 78–11–80, and draft order to show cause proposing updated final rates for the period July 1, 1979, through December 31, 1979. (OGC).

14. Docket 26487, Transatlantic, Transpacific and Latin American Service Mail Rates Investigation—Draft order on reconsideration of the Board's final decision in Order 78–12–159, and draft order to show cause proposing updated final rates for the period July 1, 1979, through December 31, 1979 (OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: The Chairman has requested that Item 8a be added to the July 3, 1979 agenda. Item 13 and 14 were deleted from the June 28, 1979 agenda and the Board has requested that they he placed on the July 3, 1979 agenda. Accordingly, the following Members have voted that agency business requires that Items 8a, 13 and 14 be added to the July 3, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S–1297–79 Filed 6–28–79; 3:31 pm]

BILLING CODE 6320–01–M

7

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S–1287–79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern Time), Tuesday, July 3, 1979.

CHANGE IN THE MEETING:

The following matter was added to the agenda for the open portion of the meeting:

Proposed interim regulations authorizing EEOC to conduct investigations of certain Federal employee complaints under a pilot program.

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, Ethel Bent Walsh, Commissioner, Armando M. Rodriguez, Commissioner, J. Clay Smith, Jr., Commissioner.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634–6748.

This Notice Issued June 27, 1979.

[S–1294–79 Filed 6–28–79; 3:01 pm]

BILLING CODE 6570–06–M

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: June 29, 1979, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED: Legislative Proposals.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523–5725.

[S–1295–79 Filed 6–28–79; 3:31 pm]

BILLING CODE 6730–01–M

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 10 a.m., Friday, June 29, 1979 [NM–79–21].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTER TO BE CONSIDERED:

A majority of the Board has determined by recorded vote that the business of the Board requires that the following item be discussed on this date and that no earlier announcement was possible:

Request for Hearing—American Airlines DC–10, N110AA, accident, O'Hare International Airport, Chicago, Ill., May 25, 1979.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

June 27, 1979.

[S–1293–79 Filed 6–28–79; 12:16 pm]

BILLING CODE 4910–58–M

federal register

Monday
July 2, 1979

Part II

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Alaska Resources Library
U.S. Department of the Interior
701 C Street, Box 36
Anchorage, AK 85513

Office of the Solicitor, Law Library
U.S. Department of the Interior
510 L Street, Suite 408
Anchorage, AK 99501

Fairbanks:
Rasmuson Library
Government Documents Section
University of Alaska
Fairbanks, AK 99701

ARIZONA

Phoenix:
Office of the Field Solicitor, Law Library
U.S. Department of the Interior
Valley Bank Center, Suite 2080
201 North Central Avenue
Phoenix, AZ 85073

Window Rock:
Field Solicitor, Law Library
U.S. Department of the Interior
Window Rock, AZ 86515

CALIFORNIA

Burlingame:
The San Mateo Foundation
1204 Burlingame Avenue
P.O. Box 627
Burlingame, CA 94010
(415) 342–2477

Glendale:
City of Glendale
Glendale Public Library
222 East Harvard Street
Glendale, CA 91205

Long Beach:
Long Beach Safety Council Library
121 Linden Avenue
Long Beach, CA 90802

Menlo Park:
U.S. Geological Survey Library
345 Middlefield Road
Menlo Park, CA 94025

Oakland:
Holy Names College Library
3500 Mountain Blvd.
Oakland, CA 94619

Orange:
Thurmond Clarke Memorial Library
Chapman College
333 North Glassell Street
Orange, CA 92666

Riverside:
Field Solicitor, Law Library
U.S. Department of the Interior
3610 Center Avenue, Suite 104
Riverside, CA 92506

Sacramento:
Regional Solicitor, Law Library
U.S. Department of the Interior
Room E–2753
2800 Cottage Way
Sacramento, CA 95825

San Francisco:
Field Solicitor, Law Library
U.S. Department of the Interior
450 Golden Gate Avenue
Box 36064
San Francisco, CA 94102

Vallejo:
California Maritime Academy
P.O. Box 1392
Vallejo, CA 94590
(707) 644–5601

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Denver:
Bureau of Land Management
Denver Service Center Library
Building 50
Denver Federal Center
Denver, CO 80225

Bureau of Reclaimation Library
Engineering and Research Center
P.O. Box 25007, Denver Federal Center
Denver, CO 80225

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U.S. Department of the Interior
Room 1400, Bldg. 67, Denver Federal Center
P.O. Box 25007
Denver, CO 80225

Rocky Mountain Regional Office Library
National Park Service
655 Perfect Street
P.O. Box 25287
Denver, CO 80225

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Lakewood:
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455 South Pierce Street
Lakewood, CO 80226
(303) 936–7407

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Prosser Public Library
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Bloomfield, CT 06002

Hartford:
The Stanley Osborne Library
Third Floor
The Connecticut State Department of Health Services
79 Elm Street
Hartford, CT 06115
(203) 566–2198

Middletown:
Olin Library
Wesleyan University
Middletown, CT 06457

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Community Services Administration
Law Library
1200 – 19th Street, N.W.
Room 525
Washington, DC 20506

Howrey & Simon
1730 Pennsylvania Ave., N.W.
Suite 900
Washington, DC 20006

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U.S. Department of the Interior
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Office of the Federal Register
1100 L Street, N.W.
Room 8301
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Office of the Regional Solicitor, Law Library
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148 Cain Street, N.W., Suite 405
Atlanta, GA 30303

Elberton:
Office of the Field Solicitor, Law Library
U.S. Department of the Interior
Samuel Elbert Building
Elberton, GA 30635

IDAHO

Boise:
Field Solicitor, Law Library
U.S. Department of the Interior
Federal Building, U.S. Courthouse
Box 20
Boise, ID 83724

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Chicago:
University of Chicago Law Library
1121 East 60th Street
Chicago, IL 60637

Lockport:
Lewis University
Route 53
Lockport, IL 60441
(815) 838–0500

Normal:
Milner Library
Illinois State University
Normal, IL 61761

Springfield:
Energy Information Library
Illinois Institute of Natural Resources, Room 300
325 W. Adams Street
Springfield, IL 62706

INDIANA

Fort Wayne:
The Public Library of
Fort Wayne and Allen County
900 Webster Street
Fort Wayne, IN 46802
(219) 424–7241

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State Library Commission of Iowa
Law Library
Capitol Building
Des Moines, IA 50319
(515) 281–5125

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East 12th & Grand
Des Moines, IA 50319

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Pittsburg State University
Pittsburg, KS 66762

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Bowling Green:
Western Kentucky University
Helm–Cravens Library
Bowling Green, KY 42101

Frankfort:
Government Document Section
State Library Division
Kentucky Department of Library & Archives
Berry Hill
Frankfort, KY 40602
(502) 564–2480

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Baton Rouge:
Library, Department of Urban & Community Affairs
5790 Florida Boulevard
Baton Rouge, LA 70806

MAINE

Newton Corner:
Office of the Regional Solicitor, Law Library
Suite 306
1 Gateway Center
Newton Corner, ME 02156

MARYLAND

Oakland:
Garrett County Planning Office
323 East Oak Street
Oakland, MD 21550
(301) 334–4200

Rockville:
Medical Library
Food & Drug Administration
5600 Fishers Lane
Room 11B40
Rockville, MD 20857

MASSACHUSETTS

Springfield:
The City Library
Central Library
220 State Street
Springfield, MA 01103

Woburn:
Commonwealth of Massachusetts
Trial Court of the Commonwealth
District Court Department
Fourth Eastern Middlesex Division
Woburn, MA 01801
(617) 935–4000

MICHIGAN

Ann Arbor:
Washtenaw Community College
4800 East Huron River Drive
Ann Arbor, MI 48106
(313) 973–3300

Detroit:
Downtown Library
Detroit Public Library
121 Gratiot
Detroit, MI 48226

Detroit Public Library
5201 Woodward Avenue
Detroit, MI 48202

Municipal Reference Library
Detroit Public Library
1004 City–County Building
Detroit, MI 48226

East Lansing:
Documents Department
Michigan State University Library
East Lansing, MI 48824

Mt. Pleasant:
Library – Documents Department
Central Michigan University
Mt. Pleasant, MI 48859
(517) 774–3414

Pontiac:
Adams–Pratt Oakland County Law Library
1200 N. Telegraph Road
Pontiac, MI 48053

Oakland Schools Library
2100 Pontiac Lake Road
Pontiac, MI 48054

Rochester:
Kresge Library
Documents Department
Oakland University
Squirrel/Walton
Rochester, MI 48063
(313) 377–2476

MINNESOTA

Edina:
Southdale–Hennepin Area Library
7001 York Avenue South
Edina, MN 55435
(612) 83–4900

Minneapolis:
Minnesota Hospital Association Library
2333 University Ave. S.E.
Minneapolis, MN 55414
(612) 331–5571

Twin Cities:
Field Solicitor, Law Library
U.S. Department of the Interior
686 Federal Building, Fort Snelling
Twin Cities, MN 55111

U.S. Bureau of Mines
Twin Cities Research Center
Library
P.O. Box 1660
Twin Cities, MN 55111

MISSISSIPPI

Gulfport:
Harrison County Law Library
1st Judicial Courthouse
1801 23rd Avenue
Gulfport, MS 39501
(601) 864–5161 ext. 336

MISSOURI

Jefferson City:
Federal Documents Department
Missouri State Library
P.O. Box 387
303 E. High Street
Jefferson City, MO 65102

MISSOURI—Continued

Sedalia:
State Fair Community College Library
1900 Clarendon Road
Sedalia, MO 65301

MONTANA

Billings:
Bureau of Land Management
Library
P.O. Box 30157
Billings, MT 59107

Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1538
Billings, MT 59103

NEBRASKA

Lincoln:
University of Nebraska–Lincoln
Libraries
Lincoln, NE 68588

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Boulder City:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 427, Park Street
Boulder City, NV 89005

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Office of the Field Solicitor, Law
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Room 4127 Federal Bldg., U.S.
Courthouse
300 Booth Street
Reno, NV 89509

NEW HAMPSHIRE

Concord:
Law Division, State Library
Supreme Court Building
Loudon Road
Concord, NH 03301
(603) 271–3777

New London:
Fernald Library
Colby–Sawyer College
New London, NH 03257

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Elmer:
Arthur P. Schalick High School
Elmer–Centerton Road
R.D. 1
Elmer, NJ 08318

Hackensack:
Johnson Free Public Library
Hackensack Area Reference Library
275 Moore Street
Hackensack, NJ 07601

Jersey City:
Hudson Health Systems Agency
Library
871 Berger Avenue
Jersey City, NJ 07306

Mahwah:
Ramapo College Library
505 Ramapo Valley Road
Mahwah, NJ 07430

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Albuquerque:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1696
Albuquerque, NM 87103

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U.S. Courthouse, Room 224
P.O. Box 1042
Santa Fe, NM 87501

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Adelphi University
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South Avenue
Garden City, NY 11530
(516) 294–8700 ext. 7345

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Niagara Falls Public Library
1425 Main Street
Niagara Falls, NY 14305

Schenectady:
Schenectady County Public Library
Liberty and Clinton Streets
Schenectady, NY 12305

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Asheboro:
Asheboro Public Library
201 Worth Street
Asheboro, NC 27203
(919) 629–3329

Boone:
Regional Information Center
Region D Council of Governments
P.O. Box 1820
Boone, NC 28607

Gastonia:
Gaston County Public Library
Headquarters: Gaston–Lincoln
Regional Library
1555 East Garrison Boulevard
Gastonia, NC 28052
(704) 865–3418

NORTH DAKOTA

Bismarck:
Office of Program Planning
All Nations Circle – Bldg. 35
United Tribes Educational Technical
Center
3315 South Airport Road
Bismarck, ND 58501

OHIO

Cleveland:
Cleveland Public Library
325 Superior Avenue
Cleveland, OH 44114

Cleveland Regional Sewer District
Library
Administrative Offices
801 Rockwell Avenue
Cleveland, OH 44114
(216) 781–6600 ext. 219

Findlay:
Marathon Oil Company
Law Library, Room 854–M
539 South Main Street
Findlay, OH 45840
(419) 422–2121 ext. 3376

Marion:
Marion Public Library
445 E. Church Street
Marion, OH 43302
(614) 387–0992

Toledo:
Toledo–Lucas County Public Library
Social Science Department
325 Michigan Street
Toledo, OH 43624
(419) 242–7361 ext. 241

OKLAHOMA

Aradarko:
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U.S. Department of the Interior
P.O. Box 397
Aradarko, OH 73005

Muskogee:
Office of the Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 1508
Muskogee, OK 74401

Pawhuska:
Field Solicitor, Law Library
U.S. Department of the Interior
c/o Osage Agency
Pawhuska, OK 74056

Tulsa:
Office of the Regional Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 3156
Tulsa, OK 74101

PENNSYLVANIA

Aliquippa
B.F. Jones Memorial Library
Aliquippa District Center
663 Franklin Avenue
Aliquippa, PA 15001
(412) 375–7174

Allentown:
The John A. W. Haas Library
Muhlenberg College
Allentown, PA 18104

Harmony:
Library
Seneca Valley Senior High School
Southwest Butler County School District
R.D. 2
Harmony, PA 16037

Harrisburg:
State Library of Pennsylvania
Box 1601
Harrisburg, PA 17126
(717) 787–7343

Millersville:
Millersville State College
Millersville, PA 17551

Vein
Stayer R & L Center
Millersville State College
Millersville, PA 17551
(717) 872–5411 ext. 552, 542

Pittsburgh:
U.S. Bureau of Mines
Library
4800 Forbes Avenue
Pittsburgh, PA 15213

Shippensburg:
Ezra Lehman Memorial Library
Shippensburg State College
Shippensburg, PA 17257

Swarthmore:
The Swarthmore College Library
The McCable Library
Swarthmore, PA 19081
(215) KI 4–7900

Washington:
Washington County Law Library
Courthouse
Washington, PA 15301
(412) 228–6747

West Chester:
Francis Harvey Green Library
West Chester State College
West Chester, PA 19380
(215) 436–2869

Wilkes–Barre:
Institute of Regional Affairs
Wilkes College
Wilkes–Barre, PA 18703

SOUTH DAKOTA

Aberdeen:
Field Solicitor, Law Library
U.S. Department of the Interior
P.O. Box 549
Aberdeen, SD 57401

TEXAS

Amarillo:
Amarillo Public Library
City of Amarillo
P.O. Box 2171
413 E. 4th
Amarillo, TX 79189

TEXAS, Amarillo—Continued

Field Solicitor
U.S. Department of the Interior
P.O. Box H–4393, Herring Plaza
Amarillo, TX 79101

College Station:
Documents Division
University Libraries
Texas A & M University
College Station, TX 77843

Dallas:
U.S. Environmental Protection Agency
Region VI
1201 Elm Street
Dallas, TX 75270

Victoria:
University of Houston
Victoria Campus
2302–C Red River
Victoria, TX 77901
(512) 575–7436

VIRGINIA

Arlington:
Office of Hearings and Appeals
Library
U.S. Department of the Interior
4015 Wilson Boulevard
Arlington, VA 22203

Fairfax:
Fairfax City Central Library
3915 Chain Bridge Road
Fairfax, VA 22030
(703) 691–2741

Lynchburg
The Library
Lynchburg College
Lynchburg, VA 24501

Norfolk:
Norfolk Public Library System
301 East City Hall Avenue
Norfolk, VA 23510

Reston:
U.S. Geological Survey
Library
National Center, Mail Stop 950
Reston, VA 22092

Richmond:
Learning Resources Center
Parham Road Campus
J. Sargeant Reynolds Community
College
P.O. Box 12084
Richmond, VA 23241
(804) 264–3220

Municipal Library
County of Henrico
Hungary Springs & Parham Roads
Richmond, VA 23228

Virginia State Library
11th & Capitol Streets
Richmond, VA 23219

WASHINGTON

Bellingham:
Documents Division, Wilson Library
Western Washington University
516 High Street
Bellingham, WA 98225
(206) 676–3075

Seattle:
NW Federal Regional Council Library
Room 1023 Arcade Plaza Building
1321 Second Avenue
Seattle, WA 98101
(206) 442–5554

Spokane:
Gonzaga University Law Library
E. 600 Sharp Avenue
P.O. Box 3528
Spokane, WA 99220

WEST VIRGINIA

Beckley:
National Mine Health and Safety
Academy
Learning Resources Center
P.O. Box 1166
Beckley, WV 25801

Montgomery:
Vining Library
West Virginia Institute of Technology
Montgomery, WV 25136

WISCONSIN

Kenosha:
Library/Learning Center
University of Wisconsin–Parkside
Wood Road
Kenosha, WI 53141

Ladysmith:
Mount Senario College Library
Ladysmith, WI 54848

BILLING CODE 6820-27-M

federal register

Monday
July 2, 1979

Part III

Environmental Protection Agency

Facilities Engaged In Leather Tanning and Finishing; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 425]

[FRL 1212-2]

Leather Tanning and Finishing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed regulation.

SUMMARY: EPA proposes regulations to limit effluent discharges to waters of the United States and introductions of pollutants into publicly owned treatment works from facilities engaged in processing animal hides and skins into finished leather. The purpose of this proposal is to provide effluent limitations guidelines for "best practicable technology," "best available technology," and "best conventional technology," and to establish new source performance standards and pretreatment standards under the Clean Water Act. To promote this purpose, EPA also proposes requirements for monitoring of effluent discharges from these facilities. After considering comments received in response to this proposal, EPA will promulgate a final rule. The Supplementary Information section of this preamble describes the legal authority and background, the technical and economic bases, and other aspects of the proposed regulations. That section also summarizes comments on a draft technical document circulated on October 4, 1978, and solicits comments on specific areas of interest. The abbreviations, acronyms, and other terms used in the Supplementary Information section are defined in Appendix A to this notice. These proposed regulations are supported by three major documents available from EPA. Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants.* EPA's technical conclusions are detailed in the *Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Leather Tanning and Finishing Point Source Category.* The Agency's economic analysis is found in *Economic Impact Analysis of Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Leather Tanning and Finishing Point Source Category.*

DATES: Comments on this proposal must be submitted within 60 days from the date of availability of the technical development document. A Notice of Availability will be published in the **Federal Register** in approximately 30 days.

ADDRESS: Send comments to: Mr. Donald F. Anderson, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, Attention: Proposed Leather Tanning Rules. The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library). The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Technical information and copies of technical documents may be obtained from Mr. Donald F. Anderson, at the address listed above, or call (202) 426-2707. The economic analysis may be obtained from Ms. Jean Noroian, Water Economics Branch (WH-586), Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460, or call (202) 426-2617.

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I. Legal Authority

The regulations described in this notice are proposed under authority of Sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977, P.L. 95-217) (the "Act"). These regulations are also proposed in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train,* 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979.

II. Background

A. The Clean Water Act

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 101(a). By July 1, 1977, existing industrial dischargers were required to achieve "effluent limitations requiring the application of the best practicable control technology currently available" ("BPT"), Section 301(b)(1)(A); and by July 1, 1983, these dischargers were required to achieve "effluent limitations requiring the application of the best available technology economically achievable . . . which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" ("BAT"), Section 302(b)(2)(A). New industrial direct dischargers were required to comply with Section 306 new source performance standards ("NSPS"), based on best available demonstrated technology; and new and existing dischargers to publicly owned treatment works ("POTWs") were subject to pretreatment standards under Sections 307(b) and (c) of the Act. While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under Section

402 of the Act, pretreatment standards were made enforceable directly against dischargers to POTWs (indirect dischargers).

Although section 402(a)(1) of the 1972 Act authorized the setting of requirements for direct dischargers on a case-by-case basis, Congress intended that, for the most part, control requirements would be based on regulations promulgated by the Administrator of EPA. Section 304(b) of the Act required the Administrator to promulgate regulations providing guidelines for effluent limitations setting forth degree of effluent reduction attainable through the application of BPT and BAT. Moreover, Sections 304(c) and 306 of the Act required promulgation of regulations for NSPS, and Sections 304(f), 307(b), and 307(c) required promulgation of regulations for pretreatment standards. In addition to these regulations for designated industry categories, Section 307(a) of the Act required the Administator to promulgate effluent standards applicable to all dischargers of toxic pollutants. Finally, Section 501(a) of the Act authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

The EPA was unable to promulgate many of these regulations by the dates contained in the Act. In 1976, EPA was sued by several environmental groups, and in settlement of this lawsuit EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the Court. This Agreement required EPA to develop a program and adhere to a schedule for promulgating for 21 major industries BAT effluent limitations guidelines, pretreatment standards, and new source performance standards for 65 "priority" pollutants and classes of pollutants. See *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), modified March 9, 1979.

On December 27, 1977, the President signed into law the Clean Water Act of 1977. Although this law makes several important changes in the Federal water pollution control program, its most significant feature is its incorporation into the Act of several of the basic elements of the Settlement Agreement program for toxic pollution control. Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now require the achievement by July 1, 1984 of effluent limitations requiring application of BAT for "toxic" pollutants, including the 65 "priority" pollutants and classes of pollutants which Congress declared "toxic" under Section 307(a) of the Act. Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at toxic pollutant controls. Moreover, to strengthen the toxics control program, Section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" ("BMPs") to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

In keeping with its emphasis on toxic pollutants, the Clean Water Act of 1977 also revises the control program for non-toxic pollutants. Instead of BAT for "conventional" pollutants identified under Section 304(a)(4) (including biochemical oxygen demand, suspended solids, fecal coliform and pH), the new Section 301(b)(2)(E) requires achievement by July 1, 1984, of "effluent limitations requiring the application of the best conventional pollutant control technology" ("BCT"). The factors considered in assessing BCT for an industry include the costs of attaining a reduction in effluents and the effluent reduction benefits derived compared to the costs and effluent reduction benefits from the discharge of publicly owned treatment works (Section 304(b)(4)(B)). For non-toxic, nonconventional pollutants, Sections 301(b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or July 1, 1984, whichever is later, but not later than July 1, 1987.

The purpose of these proposed regulations is to provide effluent limitations guidelines for BPT, BAT and BCT, and to establish NSPS, pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS), under Sections 301, 304, 306, 307, and 501 of the Clean Water Act. To promote this purpose, the proposed regulations also establish monitoring requirements under Section 308 of the Act.

B. Prior EPA Regulations

EPA promulgated BPT, BAT, NSPS, and PSNS for the Leather Tanning and Finishing Point Source Category on April 9, 1974 (39 FR 12958; 40 CFR Part 425, Subparts A–F). Several industry members challenged these regulations; and while the Court of Appeals left BAT and PSNS undisturbed, it remanded the BPT and NSPS regulations for a variety of reasons discussed below. See *Tanners' Council of America* v. *Train*, 540 F.2d 1188 (4th Cir. 1976). EPA promulgated pretreatment standards for existing sources (PSES) within the Leather Tanning and Finishing Point Source Category on March 23, 1977 (42 FR 15696; 40 CFR Part 425, Subparts A–G). PSES regulations were not challenged and are currently in effect.

The regulations proposed in this notice include new BPT and NSPS regulations to replace the remanded regulations. In addition, this proposal includes revised BAT, PSES and PSNS regulations which, on promulgation, will supersede existing BAT, PSES, and PSNS regulations.

C. Overview of the Industry

The leather tanning and finishing industry is included within the U.S. Department of Commerce, Bureau of the Census Standard Industrial Classification (SIC) 3100, Leather and Leather Products. That part of the industry covered by this regulation is the subgroup SIC 3111, leather tanning and finishing.

"Leather tanning" is a term generally used to describe the numerous processing steps involved in converting animal skins or hides into leather. The three major hide and skin types used to manufacture leather are cattlehides, sheepskins, and pigskins. The inner or dermal layer of the hide or skin contains protein collagen which is the leathermaking substance. Tanning is essentially the reaction of collagen fibers with vegetable tannins, chromium, alum, or other tanning agents. There are three major groups of standard processing steps required to manufacture leather: (1) beamhouse processes in which hides or skins are washed and soaked and attached hair is removed, (2) tanyard processes in which the proteinaceous matter in the hides or skins reacts with and is stabilized by the tanning agent, primarily trivalent chromium, and (3) retaining and wet finishing processes in which further tanning is accomplished by chemical agents; color is imparted by dyes; lubrication is affected by natural and synthetic fats and oils; and related finishing steps are completed to dry the leather, correct surface irregularities, and apply surface coatings.

Water is essential to leathermaking and is used in virtually all leathermaking processes. Various chemical preservatives, biocides, coloring pigments, and solvents are also integral to leathermaking. Characteristics of the wastewater discharged by tanneries vary depending upon the mix of production processes at a given plant. General wastewater constitutents, which contribute to numerous problems for POTWs and

industrial treatment facilities, include large pieces of scrap hide and leather and excessive quantities of hair and other solids that clog or foul operating equipment and cause fluctuations in wastewater flow and pH. The wastewater contains high levels of suspended and settleable solids, biodegradable organic matter, and significant quantities of toxic pollutants.

The most important pollutants or pollutant parameters are: (1) toxic pollutants (trivalent chromium, lead, zinc, cyanide, phenol, substituted phenols, dichlorobenzenes, maphtalene, benzene, chloroform, ethylbenzene, and toluene); (2) conventional pollutants designated in the Act (BOD*5*, TSS, and pH) and additional proposed conventional pollutants (COD, and Oil and Grease) (see 43 FR 32858); and (3) non-conventional pollutants (ammonia, total Kjeldahl nitrogen (TKN), and sulfide). These and other chemical constituents contribute to odors, facilities corrosion, hazardous gas generation, and problems in treatment plant performance and disposal of sludges containing chromium and other toxic pollutants.

EPA estimates there are 188 leather tanning and finishing plants in the United States, primarily located in the New England starts, upper New York State and the Mid-Atlantic States, the Midwest, and California. Most of the companies in this industry are family owned, closely held corporations, but a few are divisions of large conglomerates. Approximately 40 percent of these plants have fewer than 50 employees and wastewater volumes typically less than 100,000 gallons per day. About 70 percent of these plants are more than 50 years old in terms of the physical structures which house the leathermaking processes. Although the equipment used in some plants may be relatively modern, the typical processing techniques have not changed for many years. A small number of plants, usually larger plants, use modern processing methods and equipment, including reuse and recovery of process water and chemicals.

Beginning in the mid-60's and continuing until 1973, the leather tanning and finishing industry in the U.S. experienced a steady decline in number of plants, production volume, and profits. This situation improved during the 1974–1976 period. However, in late 1977, and continuing through early 1979, the industry's financial situation again deteriorated. Factors affecting the volatility of this industry include international competition for hide supply and consumer markets and increased consumer demand for leather and leather products. Despite the setback in 1977, the domestic industry may stabilize in the future, as the demand for leather products balances relative to leather substitutes. Historically, the industry has engaged in relatively little debt-financing. Inventory requirements are high for both hides and leather, and sizeable current assets reflect the substantial working capital required. Prospects for new plants vary among segments of the industry. No new plants are anticipated in vegetable tanning; entry of new plants appears likely for large cattlehide chrome and through-the-blue tanneries because advantage can be taken of strong demand and economies of scale.

III. Scope of This Rulemaking and Summary of Methodology

These proposed regulations open a new chapter in water pollution control requirements for the leather tanning and finishing industry. In EPA's 1973–1976 round of rulemakings, emphasis was placed on the achievement of best practicable technology (BPT) by July 1, 1977. In general, this technology level represented the average of the best existing performances of well known technologies for control of familiar (i.e., "classical") pollutants.

In this round of rulemaking, in contrast, EPA's efforts are directed toward insuring the achievement by July 1, 1984, of the best available technology economically achievable (BAT), which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants. In general, this technology level represents, at a minimum, the very best economically achievable performance in any industrial category or subcategory. Moreover, as a result of the Clean Water Act of 1977, the emphasis of EPA's program has shifted from "classical" pollutants to the control of a lengthy list of toxic substances.

In the 1977 legislation, Congress recognized that it was dealing with areas of scientific uncertainty when it declared the 65 "priority" pollutants and classes of pollutants "toxic" under Section 307(a) of the Act. The "priority" pollutants have been relatively unknown outside of the scientific community, and those engaged in wastewater sampling and control have had little experience dealing with these pollutants. Additionally, these pollutants often appear and have toxic effects at concentrations which severely tax current analytical techniques. Even though Congress was aware of the state-of-the-art difficulties and expense of "toxics" control and detection, it directed EPA to act quickly and decisively to detect, measure and regulate these substances. Thus, with the passage of the 1977 legislation, the Nation's water pollution control program was thrust toward the frontiers of science.

EPA's implementation of the Act required a complex development program, described in this section and succeeding sections of this notice. Initially, because in many cases no public or private agency had done so, EPA and its laboratories and consultants had to develop analytical methods for toxic pollutant detection and measurement, which are discussed under Sampling and Analytical Program. EPA then gathered technical and financial data about the industry, which are summarized under Data Gathering Efforts. With these data in hand, the Agency proceeded to develop these proposed regulations.

First, EPA studied the leather tanning industry to determine whether differences in raw materials, final products, manufacturing processes, equipment, age and size of plants, water usage, wastewater constituents, or other factors required the development of separate effluent limitations and standards for differing segments of the industry. This study included the identification of raw waste and treated effluent characteristics, including: (1) the sources and volume of water used, the processes employed, and the sources of pollutants and wastewaters in the plant, and (2) the constituents of wastewaters, including toxic pollutants. EPA then identified the constituents of wasterwaters which should be considered for effluent limitations guidelines and standards of performance, and statistically analyzed raw waste constituents, as discussed in detail in Section V of the Development Document.

Next, EPA identified several distinct control and treatment technologies, including both in-plant and end-of-process technologies, which are in use or capable of being used in the leather tanning and finishing industry. The Agency compiled and analyzed historical data and newly generated data on the effluent quality resulting from the application of these technologies. The long term performance, operational limitations, and reliability of each of the treatment and control technologies were also identified. In addition, EPA considered the non-water quality environmental impacts of these technologies, including impacts on air quality, solid waste

generation, water scarcity, and energy requirements.

The Agency then estimated the costs of each control and treatment technology from unit cost curves developed by standard engineering analysis as applied to leather tanning and finishing wastewater characteristics. EPA derived unit process costs from model plant characteristics (production and flow) applied to each treatment process unit cost curve (i.e., primary coagulation-sedimentation, activated sludge, multi-media filtration, etc.). These unit process costs were added to yield total cost at each treatment level. After confirming the reasonableness of this methodology by comparing EPA cost estimates to treatment system costs supplied by the industry, the Agency evaluated the economic impacts of these costs. (Costs and economic impacts are discussed in detail under the various technology options, and in the section of this notice entitled Costs, Effluent Reduction Benefits, and Economic Impacts).

Upon consideration of these factors, as more fully described below, EPA identified various control and treatment technologies as BPT, BCT, BAT, PSES, PSNS, and NSPS. The proposed regulations, however, do not require the installation of any particular technology. Rather, they require achievement of effluent limitations representative of the proper operation of these technologies or equivalent technologies.

The effluent limitations for BPT, BCT, BAT and NSPS are expressed as mass limitations (lbs/1,000 lbs raw material) and are calculated by multiplying three figures: (1) effluent concentrations determined from analysis of control technology performance data, (2) wastewater flow for each subcategory, and (3) any relevant process or treatment variability factor (e.g., maximum month vs. maximum day). This basic calculation was performed for each regulated pollutant or pollutant parameter for each subcategory of the industy. Effluence limitations for PSES and PSNS are expressed as allowable concentrations in milligrams per liter (mg/l). For POTWs which may wish to impose mass limitations, the proposed regulations provide guidance on equivalent mass limitations.

IV. Data Gathering Efforts

The data gathering program is described in detail in Section III of the Development Document. At the outset of the study, the Tanner's Council of America (TCA) and EPA agreed that the authority of Section 308 of the Act would not be used to support this effort for technical data collection.

To facilitate the use of existing data on the leather tanning industry, the original Developmental Document (1974) and appendices were reviewed and the technical contractor that prepared that document was included on the study team. Brief surveys and detailed questionnaires were then distributed through the Tanners' Council of America to 301 addresses of tanneries, finishers and sales offices. Out of the 188 plants in the industry, survey responses were received from 116 tanneries, and questionnaires were returned by 89 tanneries. EPA and its contractors conducted field visits at approximately 50 representative tanneries of different sizes, ages, physical configurations, and urban or rural locales. Sampling was performed at 27 of these tanneries.

EPA also contracted over 50 municipalities to obtain information on city ordinances setting effluent limitations, POTW wastewater problems, performance and expansion plans, and supplementary data for local indirect discharging tanneries. Extensive data were obtained from five POTWs which treat primarily leather tanning wastes, including wastewater sampling and analytical data from four such POTWs. Many POTWs, however, do not maintain data on pollutant parameters other than flow, pH, BOD5 and TSS.

In an effort to obtain additional data on toxic pollutants, supplementary questionnaires were mailed through the TCA to all domestic tanners. Only 46 questionnaires were returned, despite follow-up telephone contacts with non-respondents. Additionally, EPA directed questionnaires, follow-up letters and telephone requests to the industry's chemical suppliers. Questionnaires were received from ten chemical suppliers, and detailed chemical usage information was received from 16 tanneries.

Data for EPA's economic analysis were obtained primarily from a survey program conducted under authority of Section 308 of the Act. The Agency sent to the 18 direct dischargers and 170 indirect dischargers questionnaires seeking production costs, balance sheet and income data, and costs for existing pollution abatement systems. Ten direct dischargers and 120 indirect dischargers responded to this questionnaire. Follow-up surveys to the eight non-responding direct dischargers yielded six additional responses. The Agency did not send follow-up questionnaires to the 50 non-responding indirect dischargers because it was able to obtain sufficient data from the technical surveys. The economic survey data was supplemented by data from government publications, industry association sources, and visits to 25 indirect dischargers and 10 POTWs.

In addition to the foregoing data sources, supplementary data were obtained from NPDES permit files in EPA regional offices, engineering studies on treatment facilities for several domestic and European tanneries, contacts with state pollution control offices, and reports from five demonstration projects sponsored by the EPA Office of Research and Development. The data gathering effort solicited all known sources of data and all available pertinent data were used in developing these regulations.

V. Sampling and Analytical Program

As Congress recognized in enacting the Clean Water Act of 1977, the state-of-the-art ability to monitor and detect toxic pollutants is limited. Most of the toxic pollutants were relatively unknown until only a few years ago, and only on rare occasions has EPA regulated or has industry monitored or even developed methods to monitor for these pollutants. As a result, analytical methods for many toxic pollutants, under Section 304(h) of the Act, have not yet been promulgated. Moreover, state-of-the-art techniques involve the use of highly expensive, sophisticated equipment, with costs ranging as high as $200,000 per unit of equipment.

When faced with these problems, EPA scientists, including staff of the Environmental Research Laboratory in Athens, Georgia and staff of the Environmental Monitoring and Support Laboratory in Cincinnati, Ohio conducted a literature search and initiated a laboratory program to develop analytical protocols. The analytical techniques used in this rulemaking were developed concurrently with the development of general sampling and analytical protocols and were incorporated into the protocols ultimately adopted for the study of other industrial categories. See *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*, revised April 1977.

Because Section 304(h) methods were available for most toxic metals, pesticides, cyanide and phenol, the analytical effort focused on developing methods for sampling and analyses of organic toxic pollutants. The three basic analytical approaches considered by EPA were infra-red spectroscopy, gas chromatography (GC) with multiple detectors, and gas chromatography/mass spectrometry (GC/MS). In selecting among these alternatives, EPA considered their sensitivity, laboratory

availability, costs, applicability to diverse waste streams from numerous industries, and capability for implementation within the statutory and court-ordered time constrains of EPA's program. The Agency concluded that infra-red spectroscopy was not sufficiently sensitive or specific for application in water. GC with multiple detectors was rejected because it would require multiple runs, incompatible with program time constraints. Moreover, because this method would use several detectors, each applicable to a narrow range of substances, GC with multiple detectors possibly would fail to detect certain toxic pollutants. EPA chose GC/MS because it was the only available technique that could identify a wide variety of pollutants in many different waste streams, in the presence of interfering compounds, and within the time constraints of the program. In EPA's judgment, GC/MS and the other analytical methods for toxics used in this rulemaking represent the best state-of-the-art methods for toxic pollutant analyses available when this sudy was begun.

As the state-of-the-art began to mature, EPA began to refine the sampling and analytical protocols, and intends to continue this refinement to keep pace with technology advancements. Resource constraints, however, prevent EPA from reworking completed sampling and analyses to keep up with the evolution of analytical methods. As a result, the analytical techniques used in some rulemakings may differ slightly from those used in other rulemaking efforts. In each case, however, the analytical methods used represent the best state-of-the-art available for a given industry study. One of the goals of EPA's analytical program is the promulgation of additional Section 304(h) analytical methods for toxic pollutants, scheduled to be done within calendar year 1979.

Before proceeding to analyze leather tanning wastes, EPA concluded that it had to define specific toxic pollutants for analyses. The list of 65 pollutants and classes of pollutants potentially includes thousands of specific pollutants; and the expenditure of resources in government and private laboratories would be overwhelming if analyses were attempted for all of these pollutants. Therefore, in order to make the task more manageable, EPA selected 129 specific toxic pollutants for study in this rulemaking and other industry rulemakings. The criteria for selection of these 129 pollutants included frequency of occurrence in water, chemical stability and structure, amount of the chemical produced, availability of chemical standards for measurement, and other factors.

EPA ascertained the presence and magnitude of the 129 specific toxic pollutants in leather tanning and finishing wastewaters in a two-phase sampling and analysis program involving 22 tanneries and two POTWs. The plants were selected primarily to be representative of the manufacturing processes, the prevalent mix of production among plants, and the current treatment technology in the industry. One plant in each of the seven subcategories (see Industry Subcategorization) was sampled during the screening phase of the program. Three of these plants were direct dischargers and four were indirect dischargers. During the verification phase of the program, two POTWs and 15 plants in all of the seven subcategories were sampled. Nine of these 15 plants were direct dischargers, and six were indirect dischargers.

The primary objective of the field sampling program was to produce composite samples of wastewater from which concentrations of toxic pollutants could be ascertained. Sampling visits were made during three consecutive days of plant operation. Raw wastewater samples were taken either before treatment or after minimal preliminary treatment (e.g., screening), depending upon accessibility to the wastewater stream. Treated effluent samples were taken either following pretreatment (usually indirect dischargers) or following biological treatment as practiced by the industry (direct dischargers) where these technologies were in place. EPA also sampled intake water to determine the presence of toxic pollutants prior to contamination by tanning processes.

At both raw waste and pretreatment points, automatic samplers and flow recorders were used to take samples at 15 minute intervals. Composite samples were prepared by combining the samples on the basis of flows recorded during each 24-hour collection period. Samples for conventional and nonconventional pollutants, phenol (total) and cyanide (total) were obtained from the 24-hour composite, with the remaining sample volume combined in equal proportions for the 72-hour composite for toxic pollutants (acid and base-neutral extractible organics, pesticides, metals). Grab samples were taken in specially prepared vials for volatile (purgeable) organics. Prior to the plant visits, sample containers were carefully washed and prepared by specific methods, depending upon the type of sample to be taken. EPA took a number of other precautions to minimize potential contamination from sampler components. Samples were kept on ice at 4° Centigrade prior to express shipment in insulated containers.

The analyses for toxic pollutants were performed according to groups of chemicals and associated analytical schemes. Organic toxic pollutants included volatile (purgeable), base-neutral and acid (extractable) pollutants, and pesticides. Inorganic toxic pollutants included heavy metals, cyanide, and asbestos.

The primary method used in screening and verification of the volatiles, base-neutral, and acid organics was gas chromatography with confirmation and quantification on all samples by mass spectrometry (GC/MS). Phenols (total) were analyzed by the 4-aminoantipyrine (4-AAP) method. GC was employed for analysis of pesticides with limited MS confirmation. The Agency analyzed the toxic heavy metals by atomic adsorption spectrometry (AAS), with flame or graphite furnace atomization following appropriate digestion of the sample. Samples were analyzed for cyanides by a colorimetric method, with sulfide previously removed by distillation. Analysis for asbestos was accomplished by microscopy and fiber presence reported as chrysotile fiber count. Analyses for conventional pollutants (BOD5, TSS and pH), proposed conventionals (Oil and Grease and COD) and nonconventional pollutants (TKN, ammonia, and sulfide) were accomplished using "Methods for Chemical Analysis of Water and Wastes," (EPA 625/6–74–003) and amendments.

The high costs, slow pace and limited laboratory capability for toxic pollutant analyses posed difficulties unique to EPA's experience. The cost of each wastewater analysis for organic toxic pollutants ranges between $650 and $1,700, excluding sampling costs (based upon quotations recently obtained from a number of analytical laboratories). Even with unlimited resources, however, time and laboratory capability would have posed additional constraints. Although efficiency has been improving, when this study was initiated a well-trained technician using the most sophisticated equipment could perform only one complete organic analysis in an eight hour work day. Moreover, when this rulemaking study was begun there were only about 15 commercial laboratories in the United States with sufficient capability to perform these analyses. Today there are about 50 commercial laboratories known to EPA

which have the capability to perform these analyses, and the number is increasing as the demand for such capability also increases.

In planning data generation for this rulemaking, EPA considered requiring dischargers to perform monitoring and analyses for toxic pollutants under Section 308 of the Act. The Agency refrained from using this authority in developing these regulations because it was reluctant to place additional financial burdens on this industry, and because EPA desired to keep direct control over sample analyses due to the developmental nature of the methodology and the need for close quality control. Additionally, EPA believed that the slow pace and limited laboratory capability for toxic pollutant analyses would have hampered a mandatory sampling and analytical effort. Although EPA believes that the available data support these regulations, the Agency would have preferred a larger data base for some of the toxic pollutants and will continue to seek additional data. EPA will periodically review these regulations, as required by the Act, and make any revisions supported by new data. In developing these regulations, moreover, EPA has taken a number of steps to deal with the limits of science and available data. (See Regulated Pollutants and Monitoring Requirements).

VI. Industry Subcategorization

In developing these regulations, it was necessary to determine whether different effluent limitations and standards were appropriate for different groups of plants (subcategories) within the industry. The major factors considered in identifying subcategories included: hide or skin type; presence and type of processing steps including unhairing (beamhouse), tanning (tanyard), and retanning and related wet finishing; plant size, age, and location; wastewater characteristics and treatability; non-water quality environmental impacts; and costs and economic impacts. The Agency found hide or skin type and process employed to be the most significant factors, and divided the industry into seven subcategories on this basis (the orginial study and regulation provided six subcategories). Section IV of the Development Document contains a detailed discussion of the factors considered and the rationale for subcategorization.

The subcategories of the leather tanning and finishing industry are defined as follows:

1. Hair pulp, chrome tan, retan-wet finish—plants which process cured or raw cattle (or similar) hides into finished leather by chemically dissolving the hair (hair pulp), tanning with trivalent chromium, and retanning and wet finishing.

2. Hair save, chrome tan, retan-wet finish—same as subcategory one, except hair is chemically loosened and mechanically removed rather than dissolved (pulped).

3. Hair save, non-chrome tan, retan-wet finish—plants which process cured or raw cattle (or similar) hides into finished leather by chemically loosening and mechanically removing the hair, tanning with primarily vegetable tannins, alum, syntans, oils, or other chemicals, and retanning and wet finishing.

4. Retan-Wet Finish—Plants which process previously unhaired and tanned hides or splits into finished leather by retanning and wet finishing, including coloring, fatliquoring, and mechanical conditioning.

5. No beamhouse—Plants which process previously unhaired and pickled sheepskins or cattlehides into finished leather by tanning with trivalent chromium or other chemicals, and retanning and wet finishing.

6. Through-the-blue—Plants which process cured or raw cattle (or similar) hides into the "blue" stage only, by chemically dissolving the hair and tanning using trivalent chromium, with no retanning or wet finishing.

7. Shearling—Plants that process cured or raw sheep (or similar) skins into finished leather by retaining the hair on the skin, tanning with trivalent chromium or other chemicals, and retanning and wet finishing.

VII. Available Waste Water Control and Treatment Technology

A. Status of In-Place Technology

Current treatment practices in the leather tanning and finishing industry range from no treatment by many indirect dischargers to biological treatment by a few direct dischargers. Most indirect dischargers have only minimal treatment in the form of bar racks, coarse screens, holding pits, or pH control. A small number of indirect dischargers, however, have extensive pretreatment in place. Among the 18 direct dischargers, two plants have primary sedimentation and activated sludge biological treatment. The remaining direct dischargers have some form of biological treatment, usually low solids—long hydraulic detention time aerated lagoons, which require upgrading to achieve consistent effluent quality. These inadequate systems include simple lagoons with no aeration, lagoons with some mechanical aeration but no provision for sludge return, and activated sludge systems which are overloaded.

B. Control Technologies Considered

The control and treatment technologies available for this industry include: (1) In-plant control—Reduction of waste water generation by process water reduction and recycle, process modifications, alternate processing equipment, waste stream segregation, recovery and reuse of waste sulfide and chrome tanning liquors, and substitution for ammonia in the deliming process; (2) Preliminary treatment—Catalytic sulfide oxidation, coagulation with flue gas, and sedimentation of segregated unhairing waters; (3) Primary Treatment—Coagulation and sedimentation of combined wastewaters; (4) Secondary Biological Treatment—Nitrifying extended aeration activated sludge; (5) Upgraded Secondary Biological Treatment—Powdered activated carbon addition to activated sludge; (6) Advanced Treatment I—Multi-media filtration; (7) Advanced Treatment II—Granular activated carbon columns; (8) Alternative Technology—Physical/chemical treatment as an alternative to either upgrading or replacing biological treatment, especially where availabe space for installation is limited.

In-plant control, preliminary treatment, and primary treatment technologies have been demonstrated within the leather tanning industry. Activated sludge biological treatment also has been demonstrated in the industry, although without extensive in-plant controls and preliminary treatment. The combination of biological treatment with in-plant controls and preliminary treatment will result in measurably better biological treatment performance. End-of-pipe technologies beyond biological treatment have not been demonstrated in this industry. However, upgrading activated sludge biological treatment by powdered activated carbon addition has been demonstrated in the organic chemicals and petroleum refining industries, and multi-media filtration has been demonstrated in many industrial and municipal applications. Both the application and performance capabilities of these technologies for biologically stabilized industrial waste waters can be transferred to the leather industry. Granular activated carbon columns have not been demonstrated in

this industry but have received limited application in other industries.

VIII. Best Practicable Technology (BPT) Effluent Limitations

The factors considered in defining best practicable control technology currently available (BPT) include the total cost of application of technology in relation to the effluent reduction benefits from such application, the age of equipment and facilities involved, the process employed, non-water quality environmental impacts (including energy requirements) and other factors the Administrator considers appropriate. In general, the BPT technology level represents the average of the best existing performances of plants of various ages, sizes, processes or other common characteristics. Where existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or category. Limitations based on transfer technology must be supported by a conclusion that the technology is, indeed, transferable and a reasonable prediction that it will be capable of achieving the prescribed effluent limits. See *Tanners' Council of America* v. *Train, supra.* BPT focuses on end-of-pipe treatment rather than process changes or internal controls, except where such are common industry practice.

The cost/benefit inquiry for BPT is a limited balancing, committed to EPA's discretion, which does not require the Agency to quantify benefits in monetary terms. See, e.g., *American Iron and Steel Institute* v. *EPA,* 526 F.2d 1027 (3d Cir. 1975). In balancing costs in relation to effluent reduction benefits, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the cost and economic impacts of the required pollution control level. The Act does not require or permit consideration of water quality problems attributable to particular point sources or industries, or water quality improvements in particular water bodies. Therefore, EPA has not considered these factors. See *Weyerhaeuser Company* v. *Costle,* 11 ERC 2149 (D.C. Cir. 1978).

The BPT regulations promulgated by EPA on April 9, 1974 (39 FR 12958) were remanded by the United States Court of Appeals in *Tanners' Council of America* v. *Train, supra.* The Court held, among other things, that: (1) the Agency's basis for technology transfer from the meat packing industry to the leather tanning and finishing industry was not supported by the record, and (2) EPA's consideration of seasonal variability in effluent concentrations and the need for cold climate adjustments was inadequate.

In the remanded regulations, BPT technology was defined as equalization followed by primary treatment and biological treatment; aerated lagoons were considered to be equivalent to activated sludge. Considerable data in this study confirms that aerated lagoons are subject to poor performance during winter months. However, extensive data now in the record also show that, for the pollutants regulated by BPT, winter climate does not affect the performance of properly designed and operated extended aeration activated sludge systems. These systems have been demonstrated in the leather tanning and finishing industry and technology transfer from meat packing or any other industry is no longer required. Therefore, different effluent limitations based upon climate are not warranted.

This conclusion and the revised effluent concentrations are based upon 60 months of performance data from Plant No. 47 (subcategoy 3). EPA statistically analyzed the data for this activated sludge plant and found the following highest average effluent concentrations for a period of a month: BOD*5*—90 milligrams per liter (mg/l); and TSS—145 mg/l. Data from the Berwick, Maine POTW was used as the basis for establishing final effluent concentrations for oil and grease (25 mg/l) and total chromium (3 mg/l). There effluent concentrations are approximately 1.5 times greater than the long term averages for these pollutant parameters. The maximum effluent BOD*5* and TSS concentrations at Plant No. 47 for any one day, exclusive of two brief periods of upset, were found to be approximately 2.0 times greater than the long term averages.

Most of the existing biological treatment systems in the industry are inadequate. For example, some of the plants: (1) do not have the equipment necessary to be operated as high solids extended aeration activated sludge; (2) are overloaded activated sludge systems; (3) have simple lagoons with inadequate or no aeration facilities; (4) are poorly operated; or (5) suffer some combination or all of these inadequacies. Where possible, EPA has doumented these inadequacies on a plant-by-plant basis and evaluated the equipment and costs necessary to achieve high solids nitrifying extended aeration activated sludge treatment and the BPT effluent concentrations.

EPA considers the effluent concentrations achieved by plant no. 47 (BOD*5* and TSS) and the Berwick, Maine POTW (oil and grease, total chromium) to be achievable by all plants through primary treatment (coagulation-sedimentation) and secondary biological treatment (nitrifying high solids extended aeration activated sludge). Differences in raw waste characteristics among the subcategories can largely be compensated for by properly designed primary treatment technology. Remaining differences can be accounted for by adjustment in design of the activated sludge system. In light of the similarity and treatability of wastewater characteristics, and the ability to account for any differences by appropriate design modifications, the Agency concludes that transfer of BPT technology performance for (BOD*5* and TSS from subcategory no. 3 (plant no. 47) and subcategory no. 4 for oil and grease and total chromium (Berwick, Maine POTW) to all other subcategories can be accomplished with a very high degree of confidence. This conclusion is supported by data from plant no. 253 (subcategory 7) and a POTW in New England receiving more than 90 percent of its wastewater from a subcategory no. 1 tannery (Hartland, Maine). These plants are achieving on the average lower effluent concentrations than plant no. 47 and the Berwick, Maine POTW. In addition, two vegetable tanning plants (plant nos. 385 and 415) have accepted NPDES permits requiring the achievement of effluent limitations which are almost identical to these effluent concentrations. One year of operating data from a plant in the Netherlands, producing substantially better effluent quality, also substantiates the achievability of these concentrations.

In developing the proposed BPT regulations, EPA not only responded to the Fourth Circuit's specific instructions but also re-evaluated the effluent limitations *in toto* in light of the new data base. The Agency generally found lower average wastewater volumes (gallons per pound of raw material) for the seven subcategories and, accordingly, adjusted the mass limitations (lbs. of pollutants per 1000 lbs. of raw material).

In considering BPT regulations, EPA evaluated two regulatory options, which recognize the fact that the July 1, 1977, statutory BPT deadline has passed. These options are described as follows:

(A) Option One—Issue guidance to NPDES permit writing authorities. The advantages of this option include the reduction of EPA's workload associated

with preparing and reviewing formal regulations and the recognition that all leather tanning direct dischargers already have NPDES permits. The primary disadvantage of this option is that reissuance of permits with conditions established on a case-by-case basis by EPA regions or state agencies is resource intensive and time consuming. Additionally, reissuance of permits based on guidance detracts from the achievement of nationally uniform pollution controls. EPA has not assessed economic impacts because this option precludes national standards and permitting authorities may vary in their requirements.

(B) Option Two—Prepare formal regulations as a part of the rulemaking package for BAT, NSPS, PSES and PSNS. The primary advantages of this option are that: (1) permit reissuance would be simplified and expedited; (2) BPT technology and performance would be uniform and a common technology basis for BAT would be established, and (3) the performance data for activated sludge biological treatment at leather tanning plants support the regulation.

Economic analysis indicates that compliance with this option would require 14 of the 18 affected direct dischargers to invest a total of $4.5 million. Associated annualized costs (including operating, maintenance, interest and depreciation) will equal $1.5 million. Despite these costs, no closures are expected from this option.

(C) BPT Selection and Decision Critieria—EPA has chosen to propose formal regulations for revised BPT so that permit reissuance will be simplified and expedited, uniformity in technology will be furthered, and progress toward removal of toxic pollutants will be achieved. The BPT technology selected includes primary treatment (coagulation-sedimentation) and secondary biological treatment (nitrifying extended aeration activated sludge). This technology applies to all seven subcategories. While the underlying effluent concentrations are identical, the mass limitations vary among the subcategories according to differences in wastewater flows.

IX. Best Available Technology (BAT) Effluent Limitations

The factors considered in assessing best available technology economically achievable (BAT) include the age of equipment and facilities involved, the process employed, process changes, non-water quality environmental impacts (including energy requirements) and the costs of application of such technology (Section 304(b)(2)(B)). In general, the BAT technology level represents, at a minimum, the best economically achievable performance of plants of various ages, sizes, processes or other shared characteristics. As with BPT, where existing performance is uniformly inadequate, BAT may be transferred from a different subcategory or category. BAT may include process changes or internal controls, even when not common industry practice.

The statutory assessment of BAT "considers" costs, but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle, supra).* In developing the proposed BAT, however, EPA has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges, the volume and nature of discharges expected after application of BAT, the general environmental effects of the pollutants, and the costs and economic impacts of the required pollution control levels.

Despite this expanded consideration of costs, the primary determinant of BAT is effluent reduction capability. As a result of the Clean Water Act of 1977, the achievement of BAT has become the principal national means of controlling toxic water pollution. The leather tanning industry discharges over twenty different toxic pollutants and EPA has selected among four available BAT technology options which will reduce this toxic pollution by a significant amount.

These options (which are described in greater detail in Section VII of the Development Document) are:

(A) Option One—Require effluent limitations based upon BPT technology plus in-plant control and pretreatment. The selected BPT technology, which serves as a basis for each of the BAT options, includes fine screening, equalization, primary treatment and secondary biological treatment (extended aeration activated sludge). No additional end-of-pipe technology beyond BPT is included in this option. In-plant controls include water conservation and recycle for all subcategories; stream segregation for subcategories 1, 2, 3, 6 and 7; sulfide unhairing liquor recovery and reuse for subcategories 1 and 6; chrome recovery and reuse for subcategories 1, 2, 6 and 7; ammonia substitution in deliming for subcategories 1, 2, 3, and 6. Similarly, pretreatment steps include catalytic sulfide oxidation, flue gas coagulation and sedimentation of segregated unhairing liquors for subcategories 1, 2, 3 and 6.

The performance of BPT primary and secondary biological treatment would improve because reduction in water usage increases hydraulic detention time and the treatment capability of the activated sludge process, and because other in-plant controls and pretreatment reduce the raw waste load which must be treated. Nevertheless, the discharge of all pollutants would remain significant. In addition, this option would not embrace the low cost improvement to existing biological treatment afforded by Option Two discussed below.

The total mass of regulated pollutants for all direct discharges removed from BPT effluent levels by this BAT technology option would be as follows: 330,000 lbs/year of BOD5; 1,300,000 lbs/year of COD; 700,000 lbs/year of TSS; 650,000 lbs/year of oil and grease; 13,000 lbs/year of chromium (total); 1,400,000 lbs/year of TKN; 590,000 lbs/year of ammonia; 4,400 lbs/year of phenol (total); and 26,000 lbs/year of sulfide.

Economic analysis indicates that this option would require eight of the 18 direct dischargers to invest a total of $975,000 in addition to proposed BPT investment. All 18 direct dischargers would incur annualized costs of $1.7 million in addition to proposed BPT annualized costs. EPA projects no closures as a result of this option.

(B) Option Two—Require effluent limitations based upon BAT Option One plus upgraded biological treatment. This option includes the addition of powdered activated carbon (PAC) to the nitrifying extended aeration activated sludge process.

This is a relatively new and low cost technology for optimizing existing biological treatment systems. The PAC, which is added to the aeration basins of activated sludge systems, improves biological degradation and facilitates adsorption of heavy molecular weight organic compounds. This adsorption capability does not require separate and expensive equipment such as that required for granular activated carbon columns (see Option Four). When compared to the total pollutant removals projected for the entire treatment system under consideration (Option Four), most pollutant removal is expected by application of this technology option. However, substantial residual suspended solids would remain, including heavy organic compounds adsorbed on powdered activated carbon and insoluble trivalent chromium and other heavy metals. This option would not control these toxic pollutants.

The total mass of regulated pollutants for all direct dischargers removed from

BPT effluent levels by this BAT technology option would be as follows: 540,000 lbs/year of BOD5; 1,900,000 lbs/year of COD; 1,000,000 lbs/year of TSS; 680,000 lbs/year of oil and grease; 19,000 lbs/year of chromium (total); 1,600,000 lbs/year of TKN; 620,000 lbs/year of ammonia; 5,100 lbs/year of phenol (total); and 26,000 lbs/year of sulfide.

Economic analysis indicates that this option would require all 18 direct dischargers to invest a total of $1 million in addition to proposed BPT investment. Annualized costs would approximate $1.8 million, in addition to proposed BPT annualized costs. EPA projects that selection of this option may result in one closure and a loss of .25 percent of industry employment.

Option Three—Require effluent limitations based upon BAT OPTION TWO plus residual suspended solids control. This option incorporates the end-of-pipe addition of multi-media filtration to control toxic pollutants contained in suspended solids discharged from upgraded biological treatment systems.

Application of multi-media filtration in this industry would ensure a high degree of pollutant removal. This will include removal of residual suspended solids containing toxic pollutants such as heavy organic compounds, insoluble trivalent chromium, and other heavy metals.

The total mass of regulated pollutants for all direct discharges removed from BPT effluent levels by this BAT technology option would be as follows: 610,000 lbs/year of BOD5; 2,000,000 lbs/year of COD; 1,100,000 lbs/year of TSS; 710,000 lbs/year of oil and grease; 21,000 lbs/year of chromium (total); 1,670,000 lbs/year of TKN; 620,000 lbs/year of ammonia; 5,100 lbs/year of phenol (total); and 26,000 lbs/year of sulfide.

EPA estimates that this option would require all 18 direct dischargers to invest a total of $1.9 million in addition to proposed BPT investment. Annualized costs would equal $2.1 million, in addition to proposed BPT annualized costs. Selection of this option would not result in additional closures beyond the one closure projected for BAT Option Two.

(D) Option Four—Require effluent limitations based upon BAT Option Three plus the end-of-pipe addition of granular activated carbon (GAC) columns to control residual toxic organic pollutants dissolved in the wastewater discharged from multi-media filtration.

This option would ensure an advanced degree of toxic pollutant removal, including removal of residual dissolved high molecular weight organic compounds to concentrations estimated to be less than 50 parts per billion (ppb). However, the most prevalent toxic pollutant found in this industry (trivalent chromium) is not likely to be removed by this technology to lower concentrations than found in the effluent from multi-media filtration. Comparison of the performance of this technology with PAC addition to activated sludge (Option Two) indicates that while GAC columns would probably provide consistently greater removals, PAC would still affect significant removal of high molecular weight organic compounds. Moreover, the cost of PAC addition is lower than for GAC columns.

The total mass of regulated pollutants for all direct dischargers removed from BPT discharge levels by this BAT technology option would be as follows: 720,000 lbs/year of BOD5; 2,200,000 lbs/year of COD; 1,250,000 lbs/year of TSS; 770,000 lbs/year of oil and grease; 21,000 lbs/year of chromium (total); 1,670,000 lbs/year of TKN; 620,000 lbs/year of ammonia; 5,200 lbs/year of phenol (total); and 26,000 lbs/year of sulfide.

Economic analysis indicates that this option would require all 18 direct dischargers to invest a total of $3.8 million in addition to proposed BPT investment. Associated annualized costs may approximate $3 million in addition to proposed BPT annualized costs. Selection of this option would not result in additional closures beyond the one closure projected for BAT Option Two or Three.

(E) BAT Selection and Decision Criteria—EPA has selected Option Three as the basis for proposed BAT effluent limitations. This option was selected because it provides significant removal of the toxic pollutants of concern in this industry (primarily phenol and substituted phenols, chromium and other heavy metals) by in-plant control, pretreatment, and end-of-pipe treatment. Although the Act does not require a balancing of costs against effluent reduction benefits, the costs of the technology options weighed heavily in this decision (see Section IX of the Development Document for detailed discussion). The Agency rejected Option Four because of the high costs and minimal incremental pollutant reduction compared to Option Three. EPA believes that the effluent limitations required by this Option are achievable through careful operation and maintenance of Option Two treatment alone. Application of multi-media filtration, however, will ensure achievement of these effluent limitations where operation and maintenance procedures may not be optimal.

EPA developed the effluent limitations in a building block fashion by engineering analysis using BPT technology as a base. Starting from raw waste loads (lbs/1,000 lbs. for each pollutant parameter) for each subcategory, including reduced flows demonstrated by plants in the industry, EPA applied the performance of each of the preliminary treatment processes to reduce these loads in the appropriate sequence for the segregated waste streams. The Agency then combined the waste loads remaining after these treatment processes to obtain reduced input to BPT technology. Engineering estimates were then made for the expected improvement in the performance of BPT as a result of the flow reduction, in-plant control, and preliminary treatment. This served as the effluent quality basis for BAT Option One. The effluent quality produced by Option One served as the starting point for application of powdered activated carbon (PAC) technology. The performance of PAC in optimizing activated sludge biological treatment was based on conservative estimates of PAC performance in the organic chemicals and petroleum refining industries. The resulting improved effluent quality became the basis for BAT Option Two. This effluent quality was then subjected to the performance of multi-media filtration transferred from other industrial and municipal applications. The resulting effluent quality is the basis for proposed BAT.

The reductions of "classical" pollutants projected by this engineering analysis are based on long term performance, resulting in final effluent quality representative of long term averages. EPA then estimated effluent variability to develop effluent concentrations which were multiplied by the flows for each subcategory to yield maximum thirty day average and maximum daily mass effluent limitations (lbs./1,000 lbs.).

One plant, which was sampled during the EPA program but is no longer in operation, had physical/chemical treatment in place which achieved effluent concentrations for all pollutant parameters which were lower than the effluent concentrations underlying these proposed BAT regulations. One biological treatment plant (No. 253) in New England is achieving the BAT effluent limitations and underlying concentrations for BOD5, and for TKN and ammonia for significant periods of operation including winter. The reasonableness of the effluent concentrations underlying proposed

BAT is shown by comparision to other industrial categories. For example, the multi-media filtration-based BPT concentrations underlying the petroleum refining industry regulations are significantly more stringent than the BAT concentrations utilized in these requlations.

X. Best Conventional Technology (BCT) Effluent Limitations

The 1977 amendments added Section 301(b)(4)(E) to the Act, establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in Section 304(b)(4)—BOD, TSS, fecal coliform and Ph—and any additional pollutants defined By the Administrator as "conventional." On July 28, 1978, EPA proposed that COD, oil and grease, and phosphorus be added to the conventional pollutant list (43 FR 32857).

BCT is not an additional limitation, but replaces BAT for the control of conventional pollutants. BCT requires that limitations for conventional pollutants be assessed in light of a new "cost-reasonableness" test, which involves a comparison of the cost and level of reduction of conventional pollutants from the discharge of publicly owned treatment works to the cost and level of reduction of such pollutants from a class or category of industrial sources. In its review of BAT for "secondary" industries, the Agency proposed BCT levels based on a methodology described at 43 FR 37570 (Aug. 23, 1978). This methdology compares subcategory removal costs (dollars per pound of pollutant, measuring from BPT to BAT option) with costs of POTWs with similar flows.

EPA applied this methodology to the costs for removal of conventional pollutants in the seven subcategories of the leather tanning and finishing industry. Models were chosen to represent the average size plant in each subcategory. The total annualized cost of each control technology option and the total pounds per year of conventional pollutants (BOD*5* and TSS) removed were then computed for each of these model plants. The Agency concluded from this analysis that BCT limitations based upon multi-media filtration (BAT Option 3) are reasonable. At this level, cost to pollutant reduction ratios range from $0.31 per pound of BOD*5* and TSS removed for subcategory no. 4 (compared to POTW cost of $1.54 ankd 0.09 MGD) to $0.94 per pound of BOD*5* and TSS removed for subcategory no. 3 (compared to POTW cost of $1.28 at 0.152 MGD). Therefore, EPA is proposing BCT effluent limitations at the proposed BAT (Option Three) level. BCT investment, annualized costs, and economic impact are included in the BAT analyses.

EPA is evaluating comments on the proposed BCT methodology and plans to publish a final methodology within the next few months. Possible changes may include adoption of a uniform POTW removal cost based on a weighted average POTW flow, instead of multiple flow-based costs. These or other changes in the BCT methodology, if any, will be reflected in the final regulations for the leather tanning and finishing industry.

XI. New Source Performance Standards (NSPS)

The basis for new source performance standards (NSPS) under Section 306 of the Act is the best available demonstrated technology. New plants have the opportunity to design the best and most efficient leather tanning processes and wastewater treatment technologies, and, therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies which reduce pollution to the maximum extent feasible. EPA considered three options for selection of NSPS technology:

(A) Option One—Required performance standards based upon the same technology proposed for BAT, which includes in-plant control (water conservation and recycle, stream segregation, sulfide unhairing liquor recovery and reuse, substitution for ammonia in deliming, and recovery and reuse of chromium), preliminary treatment (catalytic oxidation of sulfides, coagulation with flue gas and sedimentation of segregated beambouse wastewaters), primary treatment (coagulation and sedimentation), secondary biological treatment (extended aeration activated sludge upgraded by powdered activated carbon (PAC)), and residual suspended solids controls (multi-media filtration).

As previously discussed under BAT Option Three, application of these technologies would ensure a high degree of removal of toxic pollutants, including heavy organic compounds, insolvent trivalent chromium, and other heavy metals. Economic analysis indicates that selection of this option would not change the rate of entry into the industry or slow the rate of industry growth.

(B) Option Two—Require performance standards more stringent than proposed BAT, based on NSPS Option One technologies plus residual dissolved organics control by granular activated carbon (GAC) columns. This option is equivalent to BAT Option Four and is discussed in that section. Economic analysis indicates that selection of this option would not change the rate of entry into the industry or slow the rate of industry growth.

(C) Option Three—Require performance standards based upon physical/chemical treatment. This technology was not considered a viable option for BAT because most existing plants already have a substantial commitment to biological treatment.

Physical/chemical treatment, as demonstrated by one plant in the leather tanning and finishing industry, can produce excellent effluent quality on a consistent basis. This treatment is somewhat less expensive to install than biological treatment and could reduce the operational care required by biological treatment systems. Although this technology has been demonstrated at one small leather tanning plant (which recently closed), that plant did not have the high raw waste loads associated with unhairing. The effluent quality projected after application in other subcategories is not better than that resulting from NSPS Option One. (See Section VII of the Development Document). EPA anticipates that this option would not change the rate of entry into the industry or slow the rate of industry growth. Economic analysis indicates that this option would reduce profitability less than Options One and Two.

(D) NSPS Selection and Decision Criteria—EPA has selected Option One as the basis for proposed new source performance standards because it provides the maximum feasible removal of toxic pollutants of concern. The Agency rejected GAC columns (Option Two) because it believes that GAC columns are too expensive and sophisticated for use in this industry. Although the Agency believes that physical/chemical treatment (Option Three) may be a viable option, it rejected this option because of technical and economic questions regarding its application to raw wastewaters different from those of the plant where it was installed (although this shortcoming may be overcome with careful design and pilot plant evaluation). Economic analysis indicates that imposition of this level of technology would not change the rate of entry into the industry or slow the rate of growth.

XII. Pretreatment Standards for Existing Sources (PSES)

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES), which must be achieved within three years of promulgation. PSES are designed to prevent the discharge of pollutants which pass through, interfere with, or are otherwise incompatible with the operation of POTWs. The Clean Water Act of 1977 adds a new dimesion by requiring pretreatment for pollutants, such as heavy metals, that limit POTW sludge management alternatives, including the beneficial use of sludges on agricultural lands. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology for removal of toxic pollutants. The general pretreatment regulations (40 CFR Part 403), which served as the framework for these proposed pretreatment regulations for the leather tanning and finishing industry, can be found at 43 FR 27736 (June 26, 1978).

(A) Option One—Require pretreatment standards for all plants based on in-plant control and pretreatment technologies. This option incorporates in-plant controls (including water conservation and recycle, stream segregation, sulfide unhairing liquor recovery and reuse, chromium recovery and reuse, and substitution for ammonia in the deliming process) and pretreatment (including fine screening, catalytic sulfide oxidation, flue gas coagulation and sedimentation of segregated unhairing wastewater, and coagulation and sedimentation of combined streams).

These well documented technologies can remove substantial quantities of the pollutants of concern in this industry. Application of this option will remove more than 90 percent of the trivalent chromium and make POTW sludges more amenable to land disposal. Without this removal of chromium, the large quantities of POTW sludges may contain very high concentrations of chromium (sometimes in excess of three percent) and, thus, face severely limited disposal alternatives consistent with Section 405(d) of the Act. In this regard, this option also would allow hazardous waste disposal sites more flexibility to accept smaller and more concentrated quantities of sludges generated at industrial sites, rather than the larger quantities of POTW sludges containing chromium and other heavy metals.

This option also will provide substantial incidental removal of other toxic, conventional, and nonconventional pollutants (including sulfides) and facilitate POTW achievement of secondary treatment standards and best practicable wastewater treatment technology under Section 201(g) of the Act. Removal of sulfides will virtually eliminate significant operational hazards and odor problems experienced by a number of POTWs. Although there are no available historical data on POTW performance with this entire pretreatment option in place, projections based upon available data indicate that POTWs with major contributions from tanneries may not achieve effluent levels comparable to proposed BAT effluent limitations, especially for chromium. Nonetheless, this option includes the maximum amount of pretreatment equipment which can be installed within the limited interior building space and adjacent grounds of most existing indirect dischargers.

The total mass of regulated pollutants for all indirect dischargers removed from untreated wastewaters by this PSES technology option would be as follows: 2,300,000 lbs/year of chromium (total); 1,400,000 lbs/year of ammonia; and 1,800,000 lbs/year of sulfide. The total mass of pollutants not regulated but removed from untreated discharge levels by this PSES technology option would be as follows: 30,000,000 lbs/year of BOD*5*; 88,000,000 lbs/year of COD; 46,000,000 lbs/year of TSS; 8,200,000 lbs/year of oil and grease; and 2,500,000 lbs/year of TKN.

Economic analysis indicates that this option would require all 170 affected indirect dischargers to invest a total of $59 million and incur annualized costs approximating $30.4 million. In addition, EPA projects that up to seven plant closures may result, with total industry employment decreasing by about 1.29 percent.

(B) Option Two—Require PSES for all plants comparable to BAT effluent concentrations, based upon treatment by PSES Option One technology plus physical/chemical treatment.

Data from the one former leather tanning plant which had this technology in place confirm that toxic pollutants were removed to effluent concentrations at least as stringent as those underlying the proposed BAT. This would ensure POTW effluent comparability with BAT. However, based on survey and plant visit information, EPA believes that widespread application of this technology is not possible due to constraints on interior plant floor space and land. As discussed in the NSPS options, there are also some technical and economic concerns with this technology.

The total mass of pollutants for all indirect dischargers removed from untreated wastewaters by this PSES technology option would be as follows: 2,400,000 lbs/year of chromium (total); 2,900,000 lbs/year of ammonia; 1,800,000 lbs/year of sulfide; 47,500,000 lbs/year of BOD*5*; 131,000,000 lbs/year of COD; 68,400,000 lbs/year of TSS; 11,700,000 lbs/year of oil and grease; 9,100,000 lbs/year of TKN; and 33,000 lbs/year of phenol (total).

Selection of this option would require all 170 affected indirect dischargers to invest a total of $87 million and incur annualized costs of $39 million. EPA projects that this option would not result in additional closures beyond the seven projected for PSES Option One.

(C) Option Three—Require for the 100 chrome tanners PSES based upon the technology considered under PSES Option Two. The remaining 70 plants would be required to achieve pretreatment standards based on Option One technology.

This option would require complete treatment by the plants which contribute to POTW sludges the major portion of all chromium discharged by the industry. POTW sludges would be further reduced in toxic pollutant content, and additional progress would be made by affected POTWs toward achievement of secondary treatment requirements. However, the bulk of the trivalent chromium and other heavy metals discharged by these plants would be removed by PSES Option One technology.

The total mass of pollutants for all indirect dischargers removed from untreated wastewater by this PSES technology option would be as follows: 2,000,000 lbs/year of chromimum (total); 2,400,000 lbs/year of ammonia; 1,500,000 lbs/year of sulfide; 39,000,000 lbs/year of BOD*5*; 108,000,000 lbs/year of COD; 57,000,000 lbs/year of TSS; 9,700,000 lbs/year of oil and grease; 7,500,000 lbs/year of TKN: and 27,000 lbs/year of phenol (total).

EPA estimates that selection of this option would require all 170 affected indirect dischargers to invest a total of $79 million and incur annualized costs of $37 million. The Agency projects that this option, like Options One and Two, may result in seven plant closings.

(D) Selection of Pretreatment Technology and Decision Criteria—EPA has selected Option One as the technology basis for proposing pretreatment standards for existing sources. This option will insure removal of the bulk of trivalent chromium and

other heavy metals at the industrial site and give POTWs more flexibility in sludge disposal. Affected POTWs also will benefit from incidental removal of many pollutants and, therefore, make progress toward achievement of secondary treatment standards and best practicable wastewater treatment technology. In selecting this option, EPA is reversing its earlier decision on removal of sulfides (See 42 FR 15696) because of substantial new evidence of operational hazards and interference with many affected POTWs. Options Two and Three were rejected primarily because the projected economic impacts were high and because space and land constraints of existing plants would not permit widespread installation of these technologies.

XIII. Pretreatment Standards for New Sources (PSNS)

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant controls, and end-of-pipe treatment technologies, and to use plant site selection to ensure adequate treatment system installation. The pretreatment options for new dischargers to POTWs are the same as the first two options for PSES, presented in the preceding section of this preamble.

A. Option One—Require PSNS based on in-plant control and pretreatment technology. In addition to considering the factors previously discussed under PSES, EPA also considered that, with this technology option, POTW effluent quality may not be equivalent to proposed BAT, especially for chromium. Selection of this technology option would not change the rate of entry into the industry or slow the rate of industry growth.

B. Option Two—Require PSNS equal to proposed BAT, based on treatment by Option One technology plus physical/chemical treatment. This technology option will ensure comparability of new effluents and encourage new plants to treat their own wastewaters, subject to NSPS. This option would not change the rate of entry into the industry or slow the rate of industry growth.

C. Selection of Pretreatment Technology and Decision Criteria—EPA has selected Option Two as the technology basis for proposed pretreatment standards for new sources. This option encourages new plants to treat their own wastewaters, subject to NSPS, and thereby reduces POTW sludge disposal problems.

XIV. Regulated Pollutants

The basis upon which the controlled pollutants were selected, as well as the general nature and environmental effects of these pollutants, is set out in Section VI of the Development Document. Some of these pollutants are designated toxic under Section 307(a) of the Act, and no evidence has been found to warrant removal of any pollutant from the toxics list.

A. BPT—The pollutants controlled by this regulation include the same pollutants controlled by the remanded BPT regulation, specifically BOD5, TSS, Oil and Grease, pH, and (total) chromium. The discharge of these pollutants is controlled by maximum monthly average and maximum daily mass effluent limitations (pounds per 1,000 pounds of raw material), which are calculated by multiplying demonstrated effluent concentrations, average flow for each subcategory, and appropriate variability factors.

B. BCT—The pollutants controlled by this regulation include the statutory conventional pollutants BOD5, TSS, and pH, and the proposed conventional pollutants COD and oil and grease. As noted in the section of this preamble entitled BCT Effluent Limitations, the levels of conventional pollutants achieved by BAT Option Three technology pass the POTW cost comparison test, and proposed BCT mass limitations (pounds per 1,000 pounds of raw material) are based on that technology option.

C. BAT and NSPS—

(1) Non-toxic, nonconventional pollutants—The non-toxic, nonconventional pollutants limited by BAT and NSPS include total Kjeldahl nitrogen (TKN), ammonia, and sulfide. These pollutants are subject to numerical limitations expressed in pounds per 1000 pounds of raw material.

(2) Toxic Pollutants—The toxic pollutants expressly controlled for direct dischargers in each subcategory are phenol (total) and chromium (total), which are subject to numerical limitations expressed in pounds per 1000 pounds of raw material.

(3) Indicator Pollutants—The difficulties of analyses for other toxic pollutants has prompted EPA to propose a new method of regulating certain toxic pollutants. For toxic pollutants for which historical data is limited and relatively inexpensive analytical methods are not well developed, EPA is proposing numerical limitations on "indicator" pollutants, including BOD5, COD, TSS, oil and grease, TKN, ammonia, chromium (total), and phenol (total). The data available to EPA generally show that when these "indicator" pollutants are controlled, the concentrations of toxic pollutants are significantly lower than when "indicator" pollutants are present in high concentrations. While the relationships between "indicator" pollutants and toxic pollutants are not quantifiable on a one-to-one basis, control of an "indicator" will reasonably assure control of toxics with similar physical and chemical properties responsive to similar treatment mechanisms. This method of toxics regulation obviates the difficulties, high costs, and delays of monitoring and analyses that would result from limitations solely on the toxic pollutants. As discussed under Monitoring Requirements, however, when an "indicator" limitation is violated, a discharger may be required to monitor for some or all of the toxic pollutants or utilize biomonitoring techniques.

Appendix E is a list of toxic pollutants which were found in treated effluents at more than two plants and in concentrations greater than available analytical detection limits. EPA concludes that these pollutants will be effectively controlled by limitation of the "indicator" pollutants even though the toxics (other than chromium and phenol) are not expressly regulated by numerical limitations.

The toxic pollutants regulated by indicator pollutants include all of the volatile (purgeable) organics, some of the acid extractable organic compounds, and the base-neutral extractable organic compounds. An "indicator" for the substituted phenolic compounds is the toxic pollutant phenol as measured by the 4-aminoantipyrine method (4AAP). This method measures simple phenol and fractions of specific substituted phenols such as 2,4,6 trichlorophenol and 2,4-dichlorophenol. While pentachlorophenol does not respond to this test, EPA concludes that when both (4AAP) phenol and other "indicator" pollutants (especially oil and grease, COD, TKN, and ammonia) are controlled, this compound and other compounds resistant to rapid biodegradation will be controlled as well. Similarly, the Agency concludes that control of zinc, lead, nickel, and copper is affected by a specific limitation on (total) chromium, and by control of TSS as an "indicator" pollutant.

Some of the toxic organic compounds, such as naphthalene, are readily biodegradable and are effectively

controlled by BOD5 as an "indicator." Other toxic pollutants, such as 2,4,6-trichlorophenol and dichlorobenzenes, are resistant to biological treatment and are measured more by the COD test than the BOD5 test. COD is, therefore, an "indicator" for these toxic organic compounds, in addition to being a controlled conventional pollutant parameter. The COD test is rapidly and reliably determined by a traditional and relatively inexpensive analytical method.

Toxic pollutants such as pentachlorophenol and phthalate esters are partially treated by oil-water separation because they are immiscible in water. Thus, control of oil and grease as an "indicator" will provide control of these toxic pollutants. Other toxics such as chloroform and toluene are volatile and are air-stripped by aeration systems in activated sludge treatment. Control of BOD5 as an "indicator" will ensure control of these volatile compounds. Many of the toxic pollutants, such as pentachlorophenol and 2,4,6-trichlorophenol, are also adsorbable on suspended solids and will be controlled by TSS as an "indicator."

Ammonia nitrogen is an oxygen-demanding non-nonconventional pollutant, and TKN is a pollutant parameter which measures the organic proteinaceous nitrogen in wastewater which ultimately contributes to ammonia nitrogen in both treatment systems and receiving streams. The conditions necessary in activated sludge systems for treating TKN and ammonia (nitrification by high solids extended aeration) are the same conditions necessary for treating many of the slowly or partially biodegradable toxic organic compounds, such as 2,4-dichlorophenol and dichlorobenzenes. Ammonia and TKN are, therefore, "indicators" for removal of these toxic pollutants. See Section X of the Development Document for more detailed discussion of the rationale for using "indicator" pollutants for removal of toxic pollutants.

It should be noted that some of the "indicator" pollutants such as BOD5, COD, TSS, and Oil and Grease are classified as "conventional" pollutants under Section 304(a)(4) of the Act or proposed regulations. Because control of these "indicator" conventional pollutants is necessary to control the toxic pollutants of concern in this industry, EPA is establishing BAT limitations on these conventional pollutants. It is the Agency's position that when control of conventionals is necessary to control toxics, BAT limitations may be established for conventional pollutants, without regard to the BCT cost test. In the leather tanning industry, however, the levels of conventional pollutants achieved by the BAT control technology (Option Three) pass the POTW cost comparison test, and so the BAT "indicator" limitations on conventionals are equal to the BCT limitations. It also should be noted that some of the "indicator" pollutants (TKN and ammonia) are classified as nonconventionals. As discussed under Variances and Modifications, these "indicator" nonconventionals will not be subject to economic and water quality modifications, under sections 301(c) and (g) of the Act.

In this rulemaking, data limitations required EPA to propose "indicator" limitations on conventional and nonconventional pollutants. The Agency expects that when more data are available, it will be able to reduce its reliance on conventional and nonconventional pollutants as "indicators." This may be possible by setting alternate limitations on additional specific toxic pollutants or by limiting a few statistically supported "surrogate" pollutants. As soon as the data permit, nonconventional pollutants presently regulated as "indicators" will be declared eligible for sections 301(c) and (g) modifications; and conventional pollutants presently regulated as "indicators" will be controlled only by BCT limitations.

D. PSES and PSNS—The pollutants controlled by proposed PSES include chromium (total), ammonia, and sulfide. EPA is limiting chromium because it is the most significant toxic pollutant, and also because it serves as an "indicator" for other heavy metals including lead, zinc, copper, and nickel. Ammonia is being limited to reduce pass-through of ammonia from POTWs to receiving streams. The Agency is limiting sulfide because the evidence now available indicates that sulfide odor and hazard problems are more substantial than perceived by EPA when it previously developed PSES. See 42 FR 15696 (March 23, 1977). In addition to limitations on chromium (Total), ammonia and sulfide, the proposed PSNS also include limitations on the "indicator" pollutants regulated by BAT (BOD5, COD, TSS, oil and grease, total phenol and TKN) to ensure that toxic pollutants are controlled to BAT levels.

The PSES and PSNS effluent limitations are expressed as maximum monthly average and maximum daily concentrations (milligrams per liter). For cases where local circumstances make it necessary for individual POTWs to control the mass of pollutants discharged by contributing leather tanning plants, the equivalent mass limitations (kg/kkg or lb/1000 lb or raw material processed) have been included in the regulation as guidance.

XV. Pollutants and Subcategories Not Regulated

The Settlement Agreement contained provisions authorizing the exclusion from regulation, in certain instances, of toxic pollutants and industry subcategories. These provisions have been re-written in a Revised Settlement Agreement which was approved by the Dirstrict Court for the District of Columbia, on March 9, 1979.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants not detectable by Section 304 (h) analytical methods or other state-of-the-art methods. The toxic pollutants not detected and therefore, excluded from regulation are listed in Appendix B to this notice.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic polluants detected in the effluent from a small number of sources and uniquely related to those sources. Appendix C lists the toxic pollutants which were detected in the effluents of only one or two plants, which are uniquely related to those plants, and which, therefore, are excluded from regulation.

Paragraph 8(a)(iii) of the Revised Settlement Agreement allows the Administrator to exclude from regulation toxic pollutants detected in only trace amounts and not likely to cause toxic effects. Appendix D is a list of toxic pollutants found in trace amounts (at or below the nominal limit of analytical detection and quantification) which are not likely to cause toxic effects, and which, therefore, are excluded from regulations.

While the Settlement Agreement required EPA to regulate the entire leather and leather products industry listed under the U.S. Department of Commerce, Bureau of the Census, Standard Industrial Classification (SIC) code number 3100, Paragraph 8(a)(iv) of the Revised Settlement Agreement authorizes EPA to exclude portions of the industry from regulation. Leather Tanning and Finishing (SIC 3111), which is covered by this regulation, is a subgroup of SIC 3100. The remaining subgroups were studied and tentatively separated into two subcategories—Shoes and Related Footwear (SIC nos. 3131 through 3149), and Gloves Luggage,

Personal Goods, and Miscellaneous (SIC nos. 3151 through 3199). EPA surveyed a limited number of plants, evaluated NPDES permits, querried trade associations, and found that plants in these subcategories are primarily dry operations. A small number of specialty and hand-sewn shoe manufacturing plants and saddle manufacturing plants discharge very low volumes of process wastewaters. EPA estimates that the total discharge of process wastewater from the plants in both of these subcategories is substantially less than 25,000 gallons per day. By comparison, the leather tanning and finishing industry discharges approximately 50 million gallon per day. While EPA did not samply these plants to determine whether their low volume process wastewaters contain toxic pollutants, the Agency believes, based on the nature of the processes generating these wastewaters, that there are very few, if any, toxic pollutants present in appreciable concentrations. The Agency has concluded that plants in these subcategories should be excluded from regulation under Paragraph 8(a)(iv) of the Revised Settlement, because they do not discharge significant quantities of process wastewater.

XVI. Monitoring Requirements

When required to carry out the objectives of the Act, EPA is authorized by Section 308 to require the owner or operator of a polluant discharge source to establish and maintain records, make reports, install and the use monitoring equipment or methods, sample effluents and provide such other information as the Administrator may reasonably require. The authority under Section 308 has been frequently used by permit issuers to set monitoring requirements to "determine whether any person is in violation" of the requirements of a permit or other requirements of the Act (Section 308(a)(2)). Additionally, EPA has frequently sought information under Section 308 to aid in developing regulations for many industries.

In these, and perhaps other "toxics" regulations, EPA is setting monitoring requirements for direct and indirect dischargers for the purpose of "developing or assisting in the development" of future effluent limitations guidelines, pretreatment standards and standards of performance (Section 308(a)(1)). These monitoring requirements are not intended to supersede or duplicate compliance monitoring requirements set by NPDES permit authorities. A mandatory monitoring and analysis program is feasible at this time because the costs for toxic pollutant analyses have decreased and laboratory availability and efficiency have dramatically increased since the initiation of this study.

The monitoring program included in the proposed regulation will serve a number of purposes. First, the long term data generated on conventional, nonconventional and toxic pollutants will allow the Agency to review and revise, if necessary, the proposed regulations. Where data indicates that treatment technologies discharge effluent levels different from those in the regulations, adjustments will be made and the regulations amended. Second, the data collection program is designed to permit the Agency to establish express limits on specific toxics of concern (i.e., pentachlorophenol, 2,4,6-trichlorophenol, lead, etc.), or alternatively, establish statistically valid correlations among "surrogate" (now "indicator") pollutants and the toxic pollutants of concern. Selection of surrogate pollutants would allow identification of a shorter and less costly (in terms of monitoring expense) list of pollutant parameters for which plants would be required to sample and analyze. Third, these monitoring requirements will combine all major data collection activities into one reporting mechanism.

The proposed monitoring and analysis program would require continuous flow and pH monitoring at points of discharge to POTWs (for indirect dischargers) or discharge to receiving waters (for direct dischargers). Plants which process more than 3.1 million pounds per year of raw material will be required to collect a 24-hour composite sample once every week (in all cases during a representative period of wastewater generation, other than weekends or similar periods of minimal or no processing) and analyze for BOD5, COD, TSS, oil and grease, chromium (total), TKN, ammonia, and sulfide. Concurrent grab samples must also be taken weekly and analyzed for phenol (total-4AAP). In addition, these plants will also be required to collect one 24-hour composite sample once quarterly (again during a representative period of wastewater generation, concurrent with a weekly sample) and analyze for a limited number of toxic pollutants, including lead, phenol (by GC/MS), 2,4,6-trichlorophenol, and pentachlorophenol. Concurrent grab samples must also be taken quarterly and analyzed for cyanide (total).

Plants which process less than 3.1 million pounds per year of raw material will be required to collect a 24-hour composite sample once every two weeks and analyze for BOD5, COD, TSS, oil and grease, chromium (total), TKN, ammonia, and sulfide. Concurrent grab samples must also be taken once every two weeks and analyzed for phenol (total-4AAP). In addition, these plants will also be required to collect one 24-hour composite sample twice per year (concurrent with a sample taken on alternate weeks) and analyze for a limited number of toxic pollutants, including lead, phenol (by GC/MS), 2,4,6-trichlorophenol, and pentachlorophenol. Concurrent grab samples must also be taken twice per year and analyzed for cyanide (total).

All plants additionally will be required to report the total wastewater flow (gallons) discharged, the total raw material procesed (both in units of 1000 pounds and numbers of hides, skins, splits, etc.), and the hourly values of flow and pH for the period of sample collection. On a case-by-case basis, EPA may request collection of additional samples of raw wastewater or wastewater at points of intermediate treatment to establish treatment efficiencies. EPA may also request on a case-by-case basis collection of duplicate samples so that cross-laboratory validation analyses can be run. Finally, the initial data reporting will include all pertinent information which qualitatively describes the treatment system sampled and quantitatively specifies the design and operating features of all unit processes and equipment.

Monitoring requirements for direct dischargers will be effective on the issuance of a new NPDES permit or renewal or extension of an existing permit, and will remain in effect for two years from that date. Monitoring requirements for indirect dischargers will be effective three years from the date of promulgation of these regulations (or on the earlier installation of technology to meet pretreatment standards) and will remain in effect for one year. On a quarterly basis, all individual data points generated by this monitoring program must be submitted directly to the Project Officer, Leather Tanning and Finishing Industry, Effluent Guidelines Division (WH-552), EPA, 401 M St. S.W., Washington, D.C. 20460. Copies also must be submitted to NPDES authorities (direct dischargers) and affected POTWs (indirect dischargers). Where these individual data points are submitted for compliance monitoring purposes, duplicate sampling and analyses are not required by these proposed regulations.

In developing this monitoring program, EPA considered alternative data collection approaches and alternative monitoring frequency. First, the Agency solicited voluntary data submissions and does so again in this proposal. Second, EPA considered the alternative of issuing questionnaires under Section 308 to all or some of the affected direct and indirect dischargers. EPA decided against the use of such questionnaires because it desires long-term data. The Agency is reluctant to issue long-term Section 308 requests, and the repeated issuance of short-term data requests would be inefficient and burdensome to EPA and affected plants. In contrast, the costs for the monitoring program in this proposal ($12,000 per year for each plant) have been factored into EPA's economic impact analysis.

The above monitoring requirements are designed for data gathering and not permit compliance evaluation purposes. The regulation, however, does contain limited permit compliance monitoring requirements. When limitations on indicator pollutants are violated, additional monitoring may be required. The provisions of such monitoring requirements will be specified for each permittee and may include analysis for some or all of the toxic pollutants or the use of biomonitoring techniques. The additional monitoring is designed to determine the cause of the violation, necessary corrective measures, and the identity and quantity of toxic pollutants discharged. Each violation will be evaluated on a case-by-case basis by the permitting authority to determine whether or not the additional monitoring contained in the permit is necessary.

XVII. Costs, Effluent Reduction Benefits, and Economic Impacts

Executive Order 12044 requires EPA and other agencies to perform Regulatory Analyses of certain regulations. 43 FR 12661 (March 23, 1978). EPA's proposed regulations for implementing Executive Order 12044 require a Regulatory Analysis for major significant regulations involving annualized compliance costs of $100 million or meeting other specified criteria. 43 FR 29891 (July 11, 1978). Where these criteria are met, the proposed regulations require EPA to prepare a formal Regulatory Analysis, including an economic impact analysis and an evaluation of regulatory alternatives. The proposed regulations for the leather tanning and finishing industry do not meet the proposed criteria for a formal Regulatory Analysis. Nonetheless, this proposed rulemaking satisfies the formal Regulatory Analysis requirements.

EPA's economic impact assessment is set forth in *Economic Impact Analysis of Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Leather Tanning and Finishing Point Source Category*, April 1979, EPA 440/2–79–019. This report details the investment and annualized costs for the industry as a whole and for model plants covered by the proposed leather tanning regulations. The data underlying the analysis were obtained from the Development Document, publicly available financial studies and surveys, and the EPA economic survey program described under Data Gathering Efforts. The report assesses the impact of compliance costs in terms of plant closures, production changes, price changes, employment changes, local community impacts, and balance of trade effects.

The methodology used in the economic analysis employs basic capital budgeting techniques to determine whether or not facilities will continue operation following imposition of pollution control requirements and to evaluate reductions in profitability. The Agency developed model plants which represent production type (i.e. cattlehide—chrome tannery, sheepskin, etc.), discharge status (direct or indirect), and production size. In addition, to verify model plant results, EPA performed a plant specific analysis for each of the 18 direct discharging tanneries. Although plant specific economic analyses are not generally used by EPA, the small number of direct discharges made this approach feasible.

The decision criteria for plant closures are based on net present value analysis (NPV) and cash flow analysis. Cash flow analysis measures the total annual expenditures and total revenues, the difference being the "net cash flow." Under NPV analysis, the net cash flows for each year (over the life of an investment) are discounted at the interest rate representing the industry cost of capital. Plants are projected to close or refrain from entry if both the NPV and the sum of the NPV and annual cash flow are negative. Where best estimates were not available, EPA made conservative assumptions which may tend to project more closures than might actually occur. These conservative assumptions include the use of straight-line depreciation, the assumption that no increases in prices are possible to recover pollution control costs, and the assumption that existing pretreaters have no wastewater treatment currently in place.

EPA estimates that the total investment costs for all the proposed regulations will approximate $65 million and that associated annualized costs (including interest, depreciation, operating and maintenance) will equal $34 million. Annualized costs include $2.3 million for monitoring requirements. The Agency's analysis assumes no increases in the price of leather goods as a result of these regulations. Through this assumption represents the worst case and some price increases may be possible, the highly competitive nature of the industry and import pressure make price pass-through abilities small. As a result, profitability may decline for most plants.

EPA projects that the proposed regulations may result in closures of as many as eight of the 188 affected plants, which could cause 310 job losses (1.5 percent of the industry employment) and displace 0.7 percent of industry production. Some of the plants which may close are located in small towns and, therefore, some communities may be affected. However, excess capacity in the industry may allow the remaining plants to absorb production and employment losses due to the projected closures. EPA does not expect the proposed regulations to affect the balance of trade, or change the rate of entry into the industry, or slow the rate of industry growth. The costs, effluent reduction benefits, and economic impacts for each proposed regulation are summarized below.

BPT—EPA estimates that, in order to meet proposed BPT, 14 of the 18 direct dischargers will have to invest a total of $4.5 million, representing about 34 percent of the current value (depreciated book value of fixed assets) of the average facility. These plants may incur annualized costs (including interest, depreciation, operating and maintenance) of $1.5 million, representing approximately 1.0 percent of sales of the average plant. Annualized costs include $216,000 for monitoring by all affected plants. The nature of leather tanning facilities is such that investment requirements tend to be low, and current assets, particularly inventory in hides, tend to be very large. Therefore, investment in pollution control can be expected to be high relative to fixed asset investment of a plant, while annualized costs are a much lower percent of sales. Current return on sales may fall from a range of 2.0 percent to 2.6 percent to a range of 1.3 percent to 2.3 percent. EPA does not expect the proposed BPT requirements

to result in any closures, job losses, production losses, community effects, or balance of trade effects.

Achievement of proposed BPT effluent limitations will remove approximately 54 million pounds per year of conventional pollutants (BOD5, COD, TSS, and Oil and Grease), 284,000 pounds per year of chromium, 374,000 pounds per year of sulfide, 100,000 pounds per year of TKN, and significant quantities of other toxic pollutants in leather tanning and finishing wastewaters. EPA believes that these effluent reduction benefits outweigh the associated costs.

BAT and BCT—EPA estimates that compliance with proposed BAT and BCT limitations may require the 18 direct dischargers to invest a total of $1.9 million, in addition to proposed BPT investment. This investment will represent about 15 percent of the current book value of fixed assets of the average facility. Annualized costs for the 18 direct dischargers in addition to proposed BPT costs may equal a total of $2.1 million, representing about 1.2 percent of sales of the average plant. The nature of leather tanning facilities is such that investment requirements tend to be low, and current assets, particularly inventory in hides, tend to be very large. Therefore, investment in pollution control can be expected to be high relative to fixed asset investment of a plant, while annualized costs are a much lower percent of sales. Current return on sales may fall from a range of 1.3 percent to 2.3 percent with BPT compliance to a range of 0.5 percent to 2.0 percent with BCT and BAT compliance. The proposed BAT requirement potentially may cause one plant closure and the unemployment of 50 persons (0.25 percent of industry employment), and the displacement of 0.3 percent of industry production. This closure may affect the local community in which the tannery is located because other employment may not be available. EPA anticipates, however, that lost employment and production may be absorbed by the remaining domestic leather tanning facilities. In view of this fact, the Agency does not expect the proposed BAT and BCT regulations to affect the balance of trade.

Achievement of proposed BAT effluent limitations will remove approximately 5.3 million additional pounds per year of conventional pollutants, 37,000 additional pounds per year of chromium, and substantial quantities of other toxic pollutants. In addition, major reductions will be made in TKN and ammonia discharges. The agency believes that the costs for these BAT removals are reasonable.

NSPS—EPA estimates that investment costs for proposed NSPS will range between 17 percent and 55 percent of the book value of fixed assets of a new tanning facility, depending upon plant size and production process. NSPS annualized costs are expected to range between 1.8 percent to 14.6 percent of total sales. These annualized costs (including monitoring costs of $12,000 per plant) represent between 0.1 percent to 1.5 percent of total sales of the average plant. The nature of leather tanning facilities is such that investment requirements tend to be low, and current assets, particularly inventory in hides, tend to be very large. Therefore, investment in pollution control can be expected to be high relative to fixed asset investment of a plant, while annualized costs are a much lower percent of sales. The Agency expects that return on sales will range between 1.0 percent to 9.0 percent with NSPS compliance, instead of 4.1 percent to 11.6 percent without NSPS compliance. These reduced profits are not expected to change the rate of entry into the industry or slow the rate of industry growth. In subcategories with the highest rate of return, EPA expects new entries even with proposed NSPS. In subcategories with lower rates of return, no new entries are expeced even without NSPS. EPA does not anticipate that proposed NSPS will affect production, employment, local communities, or balance of trade.

PSES—There are 170 plants which discharge to publicly owned treatment works, and are thus subject to proposed pretreatment standards for existing sources. While a few of these plants have some wastewater treatment in place, the following estimated costs and impacts assume no treatment in place. EPA estimates that the total investment costs to meet proposed PSES will be approximately $59 million, representing about 40 percent of the current book value of fixed assets of the average facility. PSES annualized costs may equal about $30.4 million, or approximately 3.8 percent of sales of the average plant. These annualized costs include $2 million for monitoring requirements, or $12,000 per plant. The nature of leather tanning facilities is such that investment requirements tend to be low, and current assets, particularly inventory in hides, tend to be very large. Therefore, investment in pollution control can be expected to be high relative to fixed asset investment of a plant, while annualized costs are a much lower percent of sales. Current return on sales may fall from a range of 2.3 percent ot 8.2 percent without wastewater treatment compliance to a range of −2.4 percent to 6.9 percent with proposed PSES compliance. Compliance with proposed PSES may result in the closure of as many as seven plants, causing the unemployment of approximately 260 persons (1.29 percent of industry employment) and displacing 0.4 percent of industry production. These closures may adversely affect the local communities in which the tanneries are located. It is possible, however, that employment and production loss due to closures may be absorbed by the remaining tanneries. EPA does not expect proposed PSES to affect the balance of trade.

Achievement of proposed PSES regulations is expected to remove approximately 2.3 million pounds per year of chromium from municipal sludges, or approximately 94 percent of the total burden of waste chromium generated by those plants discharging to POTWs. In addition, the majority of the other heavy metals (copper, nickel, zinc, lead) and a portion of the insoluble organic compounds will also be removed from POTW sludges.

PSNS—EPA estimates that investment costs for proposed PSNS will range between 13 percent and 51 percent of the book value of fixed assets of a new tanning facility. PSNS annualized costs are expected to range between 1.4 percent and 13.1 percent of total sales. These annualized costs include $12,000 per plant for monitoring requirements. The nature of leather tanning facilities is such that investment requirements tend to be low, and current assets, particularly inventory in hides, tend to be very large. Therefore, investment in pollution control can be expected to be high relative to fixed asset investment of a plant, while annualized costs are a much lower percent of sales. The Agency projects that return on sales may range between 1.9 percent and 9.8 percent with PSNS compliance, instead of 4.1 percent to 11.6 percent without PSNS compliance. These reduced profits are not expected to change the rate of entry into the industry or slow the rate of industry growth. In subcategories with the highest rate of return, the Agency expects new entries regardless of PSNS requirements. EPA does not believe that proposed PSNS will affect prices, production, employment, local communities, or balance of trade.

XVIII. Non-Water Quality Aspects of Pollution Control

The elimination or reduction of one form of pollution may aggravate other

environmental problems. Therefore, Sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of these regulations on air pollution, solid waste generation, water scarcity, and energy consumption. This proposal was circulated to and reviewed by EPA personnel responsible for non-water quality environmental programs. While it is difficult to balance pollution problems against each other and against energy utilization, EPA is proposing regulations which it believes best serve often competing national goals.

The following are the non-water quality environmental impacts (including energy requirements) associated with the proposed regulations:

A. Air Pollution—Imposition of BPT, BAT, BCT, NSPS, PSES, and PSNS will not create any substantial air pollution problems. However, minimal amounts of volatile organic compounds may be released to the atmosphere by aeration systems in biological treatment.

B. Solid Waste—A study by EPA's Office of Solid Waste Management (1976) estimated that the leather tanning and finishing industry generated 151,000 metric tons of solid wastes (wet basis) in 1974. These wastes were comprised of treatment system sludges (approximately 60 percent), leather shavings, trimmings, scraps, buffing dust, and other materials. Sludges contained heavy metals, including chromium, lead, nickel, zinc, and copper. The EPA study also found that 25 percent of these wastes were disposed in open dumps; 60 percent were disposed in landfills, of which only ten percent were properly operated; six percent were disposed in certified hazardous waste disposal facilities; and the remaining nine percent were disposed in lagoons, trenches, pits, and other ponds, most of which were improperly located, constructed, or operated.

EPA estimates that the proposed BPT limitations will contribute an additional 22,000 metric tons per year of solid wastes. Proposed BAT and PSES will increase these wastes by approximately 41,000 metric tons per year beyond BPT levels. About 90 percent of this amount is attributable to sludges generated by proposed PSES because all tanning industry wastewaters discharged to POTWs currently receive little or no pretreatment. These sludges will contain additional toxic pollutants (up to three percent by weight of chromium) and lesser quantities of other heavy metals and organic toxic pollutants.

On the other hand, EPA estimates that implementation of proposed pretreatment standards will result in POTW sludges having commensurately lesser quantities and concentrations of toxic pollutants. POTW sludges will become more amenable to a wider range of disposal alternatives, possibly including beneficial use on agricultural lands. Moreover, disposal of these vastly greater quantities of adulterated POTW sludges is significantly more difficult and costly than disposal of smaller quantities of wastes generated at individual plant sites.

Regulations proposed by EPA under Section 3001 of the Resource Conservation and Recovery Act (RCRA) list leather tanning and finishing solid wastes as "hazardous." 43 FR 58946, 58959 (Dec. 18, 1978). These wastes, therefore, will be subject to rigorous handling, transportation and treatment, storage, and disposal requirements, under Sections 3002–3004 of RCRA. EPA's proposed generator standards would require generators of leather tanning wastes to meet stringent containerization, labeling and reporting requirements, and, if they dispose of wastes off-site, to prepare a manifest which will track the movement of the wastes from the generator's premises to a permitted off-site treatment, storage, or disposal facility. See 43 FR 58946, 58969 (Dec. 18, 1978). The proposed transporter regulations would require transporters of leather tanning wastes to comply with the manifest and assure that the wastes are delivered to a permitted facility. See 43 FR 18506 (April 28, 1978). Finally, the proposed treater, storer, and disposer standards would establish technical design and performance standards for leather tanning waste storage facilities, and for landfills, basins, surface impoundments, incinerators, and other facilities where such wastes would be treated or disposed, as well as security, contingency plan, employee training, recordkeeping, reporting, inspection, monitoring and financial liability requirements for all such facilities. See 43 FR 58946, 58982 (Dec. 18, 1978).

EPA's Office of Solid Waste recently completed a pilot analysis of the solid waste management and disposal costs required for the leather tanning and finishing industry to comply with RCRA. The costs of compliance with proposed RCRA regulations were not specifically included in the economic impact analysis for these proposed regulations. However, EPA considered estimated RCRA compliance costs for tanneries when it selected the technology options for these proposed regulations.

C. Consumptive Water Loss—Treatment and control technologies which require extensive recycling and reuse of water may, in some cases, require cooling mechanisms. Where evaporative cooling mechanisms are used, water loss may result and contribute to water scarcity problems, of concern primarily in arid and semi-arid regions. These proposed regulations do not evision recycling requiring cooling mechanisms and, therefore, will create no additional consumptive water loss.

D. Energy Requirements—EPA estimates that the achievement of proposed BPT effluent limitations will result in a net increase in electrical energy consumption of approximately 10.4 million kilowatt-hours per year. Proposed BCT and BAT limitations are projected to add another 1.6 million kilowatt-hours to electrical energy consumption. To achieve the proposed BPT, BCT and BAT effluent limitations, a typical direct discharger will increase total energy consumption by one percent of the energy consumed for production purposes.

The Agency estimates that proposed PSES will result in a net increase in electrical energy consumption of approximately 23 million kilowatt-hours per year. To achieve proposed PSES, a typical existing indirect discharger will consume up to an additional one percent of the total energy consumed for production purposes.

XIX. Best Management Practices (BMPs)

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" ("BMPs"), described under Authority and Background. EPA intends to develop BMPs which are: (1) applicable to all industrial sites: (2) applicable to a designated industrial category; and (3) guidance to permit authorities in establishing BMPs required by unique circumstances at a given plant.

EPA is considering promulgating BMPs specific to the leather tanning and finishing industry. One area of concern is the potential for leaks and spills of hexavalent chromium from on-site storage and reduction facilities. Those plants which purchase hexavalent chromium (such as dichromates or bichromates) and reduce it on-site trivalent chromium, either prior to use in the process or by reduction in the hides or skins, may be required to periodically sample and analyze process wastewater for the presence of hexavalent chromium. In the event of recurrent leaks and spills, the permit authority

may require the discharger to discontinue the storage and use of hexavalent chromium, and allow only the storage and use of trivalent chromium as the tanning agent. Additionally, EPA may promulgate BMPs requiring dikes, curbs, or other measures to contain leaks and spills of hexavalent chromium.

XX. Upset and Bypass Provisions

An issue of recurrent concern has been whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent limitations guidelines is necessary because such upsets will inevitably occur due to limitations in even properly operated control equipment. Because technology-based limitations are to require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have been divided on the question of whether an explicit upset or excursion exemption is necessary or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F.2d 1253 (9th Cir. 1977) with *Weyerhaeuser* v. *Costle, supra* and *Corn Refiners Association, et al.* v. *Costle*, No. 78–1069 (8th Cir., April 2, 1979). See also *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540, F.2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

While an upset is an unintentional episode during which effluent limits are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. Bypass provisions have, in the paste, been included in NPDES permits.

EPA has determined that both upset and bypass provisions should be included in NPDES permits, and has recently proposed NPDES regulations which include upset and bypass permit provisions. See 43 FR 37094 (Aug. 21, 1978). The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury or severe property damage. These regulations will be issued shortly in final form. Consequently, although permittees in the leather tanning and finishing industry will be entitled to upset and bypass provisions in NPDES permits, these proposed regulations do not address these issues.

XXI. Variances and Modifications

Upon the promulgation of final regulations, the numerical effluent limitations for the appropriate subcategory must be applied in all federal and state NPDES permits thereafter issued to leather tanning direct dischargers. In addition, on promulgation, the pretreatment limitations are directly applicable to indirect dischargers.

For the BPT and BCT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. See *E. I. duPont de Nemours and Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra*. This variance recognizes factors concerning a particular discharger which are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1973–1976 industry regulations, it now will be included in the proposed NPDES regulations and will not be included in the leather tanning or other industry regulations. See the proposed NPDES regulations at 43 FR 37078, 37132 (Aug. 21, 1978) for the text and explanation of the "fundamentally different factors" variance. Final NPDES regulations will be promulgated soon.

The BAT limitations in these regulations also are subject to EPA's "fundamentally different factors" variance. In addition, BAT limitations *for non-toxic and nonconventional pollutants* are subject to modifications under Sections 301(c) and 301(g) of the Act. According to Section 301(j)(1)(B), applications for these modifications must be filed within 270 days after promulgation of final effluent limitations guidelines. See 43 FR 40859 (Sept. 13, 1978). Under Section 301(1) of the Act, these statutory modifications are not applicable to "toxic" pollutants. Likewise, limitations on nonconventional pollutants used as "indicators" for toxic pollutants are not subject to Section 301(c) or Section 301(g) modifications, unless the discharger demonstrates that a waste stream does not contain any of the toxic pollutants for which the "indicator" was designed to demonstrate removal.

Pretreatment standards for existing sources are subject to the "fundamentally different factors" variance and credits for pollutants removed by POTWs. See 40 CFR 403.7, 403.13; 43 FR 27736 (June 26, 1978). Pretreatment standards for new sources are subject only to the credits provision in 40 CFR 403.7. New source performance standards are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. See *duPont* v. *Train, supra*.

XXII. Relationship to NPDES Permits

The BPT, BAT, BCT, and NSPS limitations in these regulations will be applied to individual leather tanning and finishing plants through NPDES permits issued by EPA or approved state agencies under Section 402 of the Act. The preceding section of this preamble discussed the binding effect of these regulations on NPDES permits, except to the extent that variances and modifications are expressly authorized. This section describes several other aspects of the interaction of these regulations and NPDES permits.

First, one matter which has been subject to different judicial views is the scope of NPDES permit proceedings in the absence of effluent limitations guidelines and standards. Under currently applicable EPA regulations, states and EPA regions issuing NPDES permits prior to promulgation of these regulations must include a "reopener clause," providing for permits to be modified to incorporate "toxics" regulations when they are promulgated. See 43 FR 22159 (May 23, 1978). To avoid cumbersome modification procedures, EPA has adopted a policy of issuing short-term permits, with a view toward issuing long-term permits only after promulgation of these and other BAT regulations. The Agency has published rules designed to encourage states to do the same. See 43 FR 58066 (Dec. 11, 1978). However, in the event that EPA finds it necessary to issue long term permits prior to promulgation of BAT regulations, EPA and states will follow essentially the same procedures utilized in many cases of initial permit issuance. The appropriate technology levels and limitations will be assessed by the permit issuer on a case-by-case basis on consideration of the statutory factors. See *U.S. Steel Corp.* v. *Train*, 556 F.2d 822, 844,854 (7th Cir. 1977). In these situations, EPA documents and draft documents (including these proposed regulations and supporting documents) are relevant evidence, but not binding, in NPDES permit proceedings. See 43 FR 37078 (Aug. 21, 1978).

Another noteworthy topic is the effect of these regulations on the powers of NPDES permit issuing authorities. The

promulgation of these regulations does not restrict the power of any permit-issuing authority to act in any manner not inconsistent with law or these or any other EPA regulations, guidelines or policy. For example, the fact that these regulations do not control a particular pollutant does not preclude the permit issuer from limiting such pollutant on a case-by-case bases, when necessary to carry out the purposes of the Act. In addition, to the extent that state water quality standards or other provisions of state or Federal law require limitation of pollutants not covered by these regulations (or require more stringent limitations on covered pollutants), such limitations *must* be applied by the permit-issuing authority. Finally, the monitoring requirements in these regulations are aimed at generation of data for future rulemaking and do not supersede or affect the permit issuer's authority and duty to require compliance monitoring.

One additional topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing these regulations. The Agency wishes to emphasize that, although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. EPA has exercised and intends to exercise that discretion in a manner which recognizes and promotes good faith compliance efforts and conserves enforcement resources for those who fail to make good faith efforts to comply with the Act.

On October 4, 1978, EPA circulated a draft technical development document to a number of interested parties, including the Tanners' Council of America and several member firms, the Natural Resources Defense Council (NRDC), and affected state and municipal authorities. This document did not include recommendations for effluent limitations guidelines, pretreatment standards, or new source performance standards, but rather presented the technical basis for these proposed regulations. A meeting was held in Washington, D.C. on October 19, 1978, for public presentation and discussion of comments on this document. A brief summary of the comments presented at that meeting follows:

(1) *Comment*—Industry representatives stated that, based upon their experience, the costs for the control technology levels presented in the document were significantly underestimated.

Response—EPA checked the cost data for control technologies in the most important subcategories, and found no typographical or calculation errors. The Agency also evaluated the unit cost bases for a few key technologies and found them to be consistent with cost data provided by the industry. Further, to account for the possibility of underestimated costs, EPA modified the economic analysis to estimate the sensitivity of projected impacts to increases in cost of 50 percent and 100 percent. Results of this analysis were considered in developing the proposed regulations. At the public comments meeting, EPA solicited cost data not previously submitted or available to EPA; however, cost data submitted to date have not been sufficiently detailed to permit a meaningful comparison with costs used by EPA. The Agency will review all cost data prior to promulgating these regulations, and again solicits detailed engineering design and cost data for all unit treatment processes underlying these proposed regulations.

(2) Comment—A number of participants expressed concern for the amount of data available to the Agency for establishing BAT limitations and pretreatment standards, especially for toxic pollutants.

(2) *Response*—EPA recognizes that the data base for toxic pollutants is limited. Data limitations result from infrequent historical monitoring or regulation, and the high costs, sophistication, time delays, and limited laboratory availablility for toxic pollutant analyses. The Agency has sought and utilized all available data, except to the extent that it has not required mandatory sampling and analyses under Section 308 of the Act. To alleviate data limitations (and ease compliance monitoring burdens), EPA proposes to use "indicator" pollutants because substantially more data is available for the conventional and nonconventional "indicator" pollutants. Additionally, this proposal includes monitoring requirements to provide an expanded data base for re-evaluation and, if warranted, revision of these regulations. At the public comments meeting, EPA solicited voluntary data submissions and does so again in this notice.

(3) *Comment*—Some industry representatives considered the raw waste loads developed for BAT, particularly flow and ammonia and chromium concentrations, to be lower than feasible. The variability of the data underlying subcategory average raw waste loads was suggested as a basis for further subcategorization.

Response—EPA has found that average raw waste loads, including flows, have decreased from those found in the earlier study of the industry. These decreases reflect the efforts of several plants to reduce water use by a variety of available methods. At least one plant in each subcategory is achieving average flows equal to or lower than the flows underlying proposed BAT.

The Agency has reviewed the data and found the raw waste loads for chromium to be valid. However, the influence on these raw waste loads of data for plants with chrome recovery will be evaluated more thoroughly prior to promulgation. Also, EPA is evaluating the feasibility of ammonia substitution for deliming in view of recently supplied information which appears to indicate that leather quality problems have been encountered in the vegetable tanning process. Although the Agency believes that changes in subcategorization are not warranted, it will review the entire basis for subcategorization prior to promulgation.

(4) *Comment*—A prepresentative of a POTW, which receives a large portion of its wastewater from tanneries, suggested that pretreatment standards should be established on a case-by-case basis at the local level, rather than at the national level, and that local pretreatment standards for toxics should be related to receiving water quality.

Response—The basis for establishing pretreatment standards is articulated in the general pretreatment regulations published in 43 FR 27736 (June 26, 1978). The repretreatment strategy requires national standards which focus on removal by the best available pretreatment technology of toxic pollutants which: (1) pass through POTWs inadequately treated; (2) interfere with the operation of POTWs; or (3) limit available sludge disposal alternatives including beneficial use of sludges on agricultural lands. Reliance on local pretreatment standards based upon receiving water quality would not be consistent with the pretreatment strategy or the intent of Congress.

(5) *Comment*—A number of specific technical issues were raised, including: (1) treatability of TKN and ammonia in vegetable tanning wastewaters to the levels indicated in the draft development document; (2) consistency in removal rates for TSS and chromium by pretreatment technologies; (3) criteria for defining sludges as hazardous; (4) statistical methodology used for raw waste load determination; and (5)

consideration of land availability for plants located in cities.

Response—Detailed discussion of these topics is presented in the Development Document and in appropriate sections of this preamble. Summary responses are as follows: (1) EPA has found no data to support the view that nitrification of vegetable tanning wastes is not feasible. Until this claim is supported by operating data from a full scale nitrifying high solids extended aeration activated sludge system, EPA believes that TKN and ammonia nitrogen limitiations are appropriate; (2) the Agency found the performance of coagulation-sedimentation for removal of TSS and chromium to vary somewhat, and so it conservatively estimated removal rates based upon the best performance which could reasonably be expected for all subcategories; (3) the procedures for determining whether leather tanning solid wastes are hazardous are not germane to this rulemaking, but this concern has been brought to the attention of EPA's Office of Solid Waste; (4) the raw waste loads for the individual subcategories were based upon log-normal data distributions, which more accurately characterized the majority of the data than normal distributions and arithmetic averages; and, therefore, log-normal averages (geometric means) were used; (5) interior plant space and adjacent land for treatment facility construction were considered in selecting all technologies and were important decision criteria in the selection of pretreatment technologies.

XXIV. Solicitation of Comments

EPA invites and encourages public participation in this rulemaking. The Agency asks that any deficiences in the record of this proposal be pointed to with specificity and that suggested revisions or corrections be supported by data.

EPA is particularly interested in receiving additional comments and information on the following issues:

(1) The Agency is reviewing the sampling and analytical methods used to determine the presence and magnitude of toxic pollutants and solicits comments on the data produced by these methods and the methods themselves.

(2) In order to provide a more extensive data base for this rulemaking, EPA requests that leather tanning and finishing plants voluntarily sample and analyze for the toxic and "indicator" pollutants proposed for regulation. Samples should be taken, at a minimum, from intake water, raw wastewater, and pretreated or final effluent where treatment is in place. Voluntary sampling and analyses must be conducted by the same methods used by EPA and, therefore, plants which intend to participate in this effort should contact Mr. Donald F. Anderson at the address listed above for further assistance. Sampling and analysis protocols will be made available to plants wishing to participate in this program.

(3) In recognition of the limits of available data on some toxic pollutants, the Agency is proposing "indicator" limitations on certain conventional, nonconventional, and toxic pollutants. EPA requests the submission of data which either support or refute its belief that when the "indicator" pollutants are removed to low concentrations, the concentrations of toxic pollutants are substantially less than when the concentrations of "indicator" pollutants are high. Under the "indicator" strategy, "indicator" pollutants will be treated as toxic pollutants for all purposes. Effluent limitations will be established for them at BAT levels; "indicator" conventionals will not have to pass the BCT cost test normally required for conventional pollutants; and "indicator" nonconventional pollutants will not be subject to modifications under Sections 301(c) and 301(g), unless a permittee can show that the waste stream does not contain any of the toxic pollutants for which the "indicator" was designed to demonstrate removal. EPA requests comments on this approach. At the same time, the Agency is also considering the possibility of establishing numerical limitations (either in concentration or mass units) for the following toxic pollutants: phenol (by GC/MS methods), 100 ug/1; 2,4,6–trichlorophenol, 50 ug/1; pentachlorophenol, 25 ug/1; lead, 250 ug/1; zinc, 250 ug/1; cyanide, 500 ug/1. EPA requests comments on these limitations. The basis for these limitations is presented in the development document.

(4) To provide a comprehensive data base for review and, if necessary, revision of the effluent limitations, EPA is proposing monitoring requirements for indirect and direct dischargers in the leather tanning and finishing industry. The Agency requests comments on the need for these requirements and alternative data collection approaches.

(5) EPA has noted some anomolies or potentially erroneous data points for conventional, nonconventional and toxic pollutants and requests that plants review all data submitted to the Agency, including data for flow and production, to insure their accuracy. In addition, EPA has had difficulty in obtaining data for plants in the "through-the-blue" subcategory, and requests that these plants submit available wastewater data (production, flow, pollutant parameters and concentrations).

(6) Characterization of the nature and amount of sludges generated by leather tanning and finishing plants and the costs of sludge handling and disposal are important to these regulations and regulations being developed by EPA's Office of Solid Waste, under authority of the Resource Conservation and Recovery Act (RCRA). The Agency solicits additional data concerning the quantities, pollutant content, and handling and disposal costs for all solid wastes.

(7) Possible underestimation of control technology costs was a significant issue raised during the public comment meeting. In order to perform a meaningful comparison of EPA cost data and industry cost data, EPA requests detailed information on salient design and operating characteristics; actual installed cost (not estimates of replacement costs) for each unit treatment operation or piece of equipment (e.g., screens, clarifiers, aeration equipment, etc.); the date of installation and the amount of installation labor provided by plant personnel; and the actual cost for operation and maintenance, broken down into units of usage and cost for energy (kilowatt hours or equivalent), chemicals, and labor (work-years or equivalent).

(8) EPA's eonomic impact analysis indicates that up to eight plant closings may result from the proposed regulations; five of these closures are predicted among the smallest seven of the 21 vegetable tanning plants with indirect discharges. The Agency is updating the data underlying those projections and will initiate an intensive investigation of small vegetable tanning plants during the comment period. If this study confirms these closure estimates, the Agency will consider either adjusting or eliminating limitations for small vegetable tanning plants (those processing up to 3.1 million pounds per year) in order to minimize closures. Comments on this issue are invited.

(9) The Agency is considering best management practices (BMPs) for specific application in this industry (see Best Management Practices). EPA requests comments on the clarity, specificity, and practicability of these BMPs, as well as information and suggestions concerning additional BMPs which may be appropriate.

(10) EPA has obtained from the industry a substantial data base for the control and treatment technologies which serve as the basis for the proposed regulations. Plants which have not submitted data, or which have compiled more recent data or engineering studies than already submitted, are requested to forward these data to EPA. These data should be individual data points, not averages or other summary data, including flow, production, and all pollutant parameters for which analyses were run. Please submit any qualifications to the data, such as descriptions of facility design, operating procedures, and upset problems during specified periods.

(11) EPA requests that POTWs which receive wastewaters from leather tanning and finishing plants submit data which would document the occurrence of interference with collection system and treatment plant operations, permit violations, sludge disposal difficulties, or other incidents attributable to the pollutants contained in POTW influent.

(12) All of the plants in the industry were sent supplemental questionnaires, through the Tanners' Council of America, requesting data on in-plant controls and the use of toxic pollutants in leather tanning and finishing processes. Only 46 supplemental questionnaires out of approximately 190 were returned. EPA requests that these questionnaires be completed and returned in original to Mr. Donald F. Anderson, with a copy to Dr. Robert M. Lollar, Tanner's Council of America Laboratory, Location 14, University of Cincinnati, Cincinnati, Ohio 45221 515–281–8501.

(13) The model plants and industry profile utilized for the Agency's economic impact analysis are based upon industry data from the mid-1960's to late 1977. The Agency requests comments and data on the industry's present and expected condition.

Dated: June 13, 1979.

Douglas M. Costle,

Administrator.

Appendix A—Abbreviations, Acronyms and Other Terms Used in this Notice

Act—The Clean Water Act

Agency—The U.S. Environmental Protection Agency

BAT—The best available technology economically achievable under Section 304(b)(2)(B) of the Act

BCT—The best conventional pollutant control technology, under Section 304(b)(4) of the Act

BMP—Best management practices under Section 304(e) of the Act

BPT—The best practicable control technology currently available under Section 304(b)(1) of the Act

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Public Law 95–217)

Direct discharger—A facility which discharges or may discharge pollutants into waters of the United States

Indirect discharger—A facility which discharges or may discharge pollutants into a publicly owned treatment works

NPDES permit—A National Pollutant Discharge Elimination System permit issued under Section 402 of the Act

NSPS—New source performance standards under Section 306 of the Act

POTW—Publicly owned treatment works

PSES—Pretreatment standards for existing sources of indirect discharges under Section 307(B) of the Act

PSNS—Pretreatment standards for new sources of direct discharges under Section 307(b) and (c) of the Act

RCRA—Resource Conservation and Recovery Act (PL 94–580) of 1976, Amendments to Solid Waste Disposal Act

Appendix B—Toxic Pollutants Not Detected In Treated Effluents

acenaphthene
acrolein
acrylonitrile
1,2,4-trichlorobenzene
1,2-dichloroethane
hexachloroethane
1,1-dichloroethane
1,1,2-trichloroethane
chloroethane
bis (chloroethyl) ether
bis (2-chloroethyl) ether
2-chloroethly vinly ether
2-chloronaphthalene
para-chloro-meta-cresol
2-chlorophenol
1,3-dichlorobenzene
1,1-dichloroethylene
1,2-dichloropropane
1,3-dichloropropene (*cis*- & *trans*)
2,4-dimethylphenol
2,4-dinitrotoluene
2,6-dinitrotoluene
4-chlorophenyl phenyl ether
4-bromophenyl phenyl ether
bis-(2-chloroisopropyl) ether
bis-(2-chloroethoxy) methane
methyl chloride (chloromethane)
methyl bromide (bromomethane)
bromoform (tribromomethane)
bromodichloromethane
trichlorofluoromethane
dichlorodifluoromethane
dibromochloromethane
hexachlorobutadiene
hexachlorocyclopentadiene
2-nitrophenol
4-nitrophenol
2,4-dinitrophenol
4,6-dinitro-*o*-cresol
n-nitroso-dimethylamine
n-nitroso-di-*n*-propylamine
butyl benzyl phthalate
di-n/octyl phthalate
dimethyl phthalate
1,2-benzanthracene (benzo(a)anthracene)
3,4-benzopyrene (benzo(b)pyrene)
3,4-benzofluoranthene (benzo(b)fluoranthene)
11,12-benzofluoranthene (benzo(k)fluoranthene)
acenaphthylene
1,12-benzoperylene (benzo(ghi)perylene)
1,2,5,6-dibenzanthracene (dibenzo(a,k)anthracene)
indeno (1,2,3-cd) pyrene (1,2-o-phenylene pyrene)
trichloroethylene
vinyl chloride (chloroethylene)
aldrin
dieldrin
chlordane
4,4'-DDT
4,4'-DDE (p,p'-DDX)
4,4'-DDD (p,p'-TDE)
a-endosulfan
b-endosulfan
endosulfan sulfate
endrin
endrin aldehyde
heptachlor
heptachlor epoxide
a-BHC
b-BHC
r-BHC (lindane)
s-BHC
PCB-1242 (Arochlor 1242)
PCB-1254 (Arochlor 1254)
PCB-1221 (Arochlor 1221)
PCB-1232 (Arochlor 1232)
PCB-1248 (Arochlor 1248)
PCB-1260 (Arochlor 1260)
PCB-1016 (Arochlor 1016)
toxaphene
2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

Appendix C—Toxic Pollutants Detected In Treated Effleuents At Two Plants Or Less

trans-1,2-dichloroethene
1,1,1-trichloroethane
tetrachloromethane (carbon tetrachloride)
1,1,2,2-tetrachloroethene
1,1,2,2-tetrachloroethane
chlorobenzene
hexachlorobenzene
n-nitrosodiphenylamine
1,2-diphenylhydrazine
benzidine
3,3'-dichlorobenzidine
nitrobenzene
isophorone
fluorene
fluoranthene
pyrene
diethyl phthalate
di-*n*-butyl phthalate
chrysene
2,4-dichlorophenol

Appendix D—Toxic Pollutants Detected in Treated Effluents at or below the Nominal Detection Limit

benzene
phenanthrene/anthracene
beryllium
cadmium
mercury
antimony
asbestos*

*Total chrysotile fiber count

arsenic
selenium
silver
thallium

Appendix E—Toxic Pollutants Detected in Treated Effluents in Significant Concentrations

2,4,6-trihchlorophenol
chloroform
1,2-dichlorobenzene
1,4-dichlorobenzene
ethylbenzene
methylene chloride (dichloromethane)
naphthalene
petachlorophenol
phenol
bis (2-ethylhexyl) phthalate
toluene
chromium
copper
cyanide
lead
nickel
zinc

Revision of Part 425 of Chapter I of Title 40 is proposed to read as follows:

PART 425—LEATHER TANNING AND FINISHING INDUSTRY POINT SOURCE CATEGORY

General Provisions

Sec.
426.10 Applicability.
425.11 General definitions.
425.12 Monitoring and reporting requirements.

Subpart A—Hair Pulp, Chrome Tan, Retan-Wet Finish Subcategory

Sec.
425.20 Applicability; description of the hair pulp, chrome tan, retan-wet finish subcategory.
425.21 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
425.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
425.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
425.24 New source performance standards (NSPS).
425.25 Pretreatment standards for existing sources (PSES).
425.26 Pretreatment standards for new sources (PSNS).

Subpart B—Hair Save, Chrome Tan, Retan-Wet Finish Subcategory

425.30 Applicability; description of the hair save chrome tan, retan-wet finish subcategory.
425.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
425.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
425.33 Effluent limitations representing the degree of effluent reducton attainable by the application of the best available technology economically achievable (BAT).
425.34 New source performance standards (NSPS).
425.35 Pretreatment standards for existing sources (PSES).
425.36 Pretreatment standards for new sources (PSNS).

Subpart C—Hair Save, Non-Chrome Tan, Retan-Wet Finish Subcategory

425.40 Applicability; description of the hair save, non-chrome tan, retan-wet finish subcategory.
425.41 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
425.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
425.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
425.44 New source performance standards (NSPS).
425.45 Pretreatment standards for existing sources (PSES).
425.46 Pretreatment standards for new sources (PSNS).

Subpart D—Retan-Wet Finish Subcategory

425.50 Applicability; description of the retan-wet finish subcategory.
425.51 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
425.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
425.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
425.54 New source performance standards (NSPS).
425.55 Pretreatment standards for existing sources (PSES).
425.56 Pretreatment standards for new sources (PSNS).

Subpart E—No Beamhouse Subcategory

425.60 Applicability; description of the no beamhouse subcategory.
425.61 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
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425.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
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Subpart F—Through-the-Blue Subcategory

425.70 Applicability; description of the through-the-blue subcategory.
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425.74 New source performance standards (NSPS).
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425.81 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
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425.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
425.84 New source performance standards (NSPS).
425.85 Pretreatment standards for existing sources (PSES).
425.86 Pretreatment standards for new sources (PSNS).

Authority: Sections 301, 304(b), (c), (e), and (g), 306(b) and (c), 307(b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 U.S.C. 111, 1314(b), (c), (e), and (g), 1316(b) and (c), 1317(b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

General Provisions

§ 425.10 Applicability.

This part applies to any tannery which discharges or may discharge pollutants to waters of the United States or which introduces or may introduce pollutants into a publicly owned treatment works.

§ 425.11 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) "Hide" means any animal pelt or skin as received by a tannery as raw material to be processed.

(b) "Retan-wet finish" means the final processing steps performed on a tanned hide including, but not limited to, the following wet processes: retan, bleach, color, and fatliquor.

(c) "Hair pulp" means the removal of hair by chemical dissolution.

(d) "Hair save" means the physical or mechanical removal of hair which has not been chemically dissolved , and either selling the hair as a by-product or disposing of it as a solid waste.

(e) "Chrome tan" means the process of converting hide into leather using a form of chromium.

(f) "Vegetable tan" means the process of converting hide into leather using chemicals either derived from vegetable matter or synthesized to produce effects similar to those chemicals.

(g) "Indicator" pollutant means any of the following: BOD*5*, COD, TSS, oil and grease, chromium (total), TKN, ammonia, and phenol (total-4AAP).

(h) "Toxic" pollutant means any pollutant designated as toxic under section 307(a) of the Act.

§ 425.12 Monitoring and reporting requirements.

(a) Data Gathering. (i) Any leather, tanning and finishing plant subject to this part, which processes more than 3.1 million pounds per year of raw material, must take 24-hour composite samples (in all cases taken during representative periods of wastewater generation, other than weekends or periods of minimal or no processing) of final effluent and analyze—

(A) once per week for BOD*5*, COD, TSS, oil and grease, chromium (total), TKN, anmonia, and sulfide,

(B) during the same 24—hour period, a grab sample must be taken and analyzed once per week for phenol (total-4AAP).

(C) once per quarter, concurrent with a weekly sample, for lead, phenol (by GC/MS), 2,4,6-trichlorophenol, and pentachlorophenol.

(D) during the same 24-hour period, a grab sample must be taken and analyzed once per quarter for cyanide (total).

(ii) Any leather tanning and finishing plant subject to this part, which processes less than 3.1 million pounds per year of raw material, must take 24-hour composite samples in all cases taken during representative peiods of wastewater generation, other than weekends or periods of minimal or no processing) of final effluent and anaylze—

(A) Once every two weeks for BOD*5*, COD, TSS, oil and grease, chromium (total), TKN, ammonia, and sulfide, and

(B) During the same 24-hour period, a grab sample must be taken and analyzed once every two weeks for phenol (total-4AAP).

(C) Once every six months, concurrent with sample taken on alternate weeks, for lead, phenol, 2,4,6-trichlorophenol, and pentachlorophenol.

(D) During the same 24-hour period, a grab sample must be taken and analyzed once per quarter for cyanide (total).

(iii) Any leather tanning and finishing plant subject to this part must install and operate equipment necessary to provide hourly values of flow and pH for the period of sample collection.

(iv) Sampling and analyses must be performed by the methods incorporated by reference into this part and specified in 40 CFR Part 136 and:

(A) *Handbook for Monitoring Industrial Wastewater*, EPA, Office of Technology Transfer, August, 1973,

(B) *Manual of Methods for Chemical Analysis of Water and Wastes*, EPA Office of Technology Transfer, 1974, as amended,

(C) *Standard Methods for the Examination of Water and Wastewater*, APHA–AWWA–WPCF, 14th Edition, 1975, and,

(D) *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants*, EPA Effluent Guidelines Division, April, 1977.

(v) All individual data points and analytical reports generated by this monitoring program must be submitted quarterly to Project Officer, Leather Tanning and Finishing Industry, Effluent Guidelines Division (WH–552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Copies of these reports must be submitted to the appropriate National Pollutant Discharge Elimination System (NPDES) authority or publicly owned treatment works. All plants must report the total wastewater flow (gallons) discharged, the total raw material processed (both in units of 1000 pounds and numbers of hides, skins, splits, etc.), and the hourly values of flow and pH for the period of sample collection. The initial data reporting must include all pertinent information which qualitatively describes the treatment system sampled and quantitatively specifies the design and operating features of all unit processes and equipment. Analytical reports and raw data must be maintained for inspection upon the request of EPA, the NPDES authority, or the publicly owned treatment works.

(vi) Monitoring and reporting requirements are effective—

(A) For any tannery which discharges pollutants to waters of the United States, from the date of issuance of an NPDES permit until two years from that date, and

(B) For any tannery which introduces pollutants into a publicly owned treatment works (POTW), from three years following the date of promulgation of this part or the installation of equipment to comply with this part, whichever is earlier, until one year from that date.

(b) *Compliance Evaluation.* All NPDES permits shall include a condition for additional monitoring when a limitation on an indicator pollutant is violated. The additional monitoring shall be conducted at the discretion of the permitting authority, and may include analysis for specific toxic pollutants, an effluent scan, or the use of biomonitoring techniques.

Subpart A—Hair Pulp, Chrome Tan, Retan-Wet Finish Subcategory

§ 425.20 Applicability; description of the hair pulp, chrome tan, retan-wet finish subcategory.

This subpart applies to discharges to waters of the United States, and introductions of pollutants into publicly owned treatment works from any tannery which, either exclusively or in addition to other unhairing and tanning operations, processes raw or cured cattle or cattle-like hides into finished leather by chemically dissolving the hide hair, chrome tanning, and retan-wet finishing.

§ 425.21 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR §§ 125.30–32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent

reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	Subpart A BPT effluent limitations: Maximum for any 1 day	Subpart A BPT effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	7.0	3.5
TSS	11.2	5.6
Total chromium	0.24	0.12
Oil and grease	2.0	1.0
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT):

Pollutant or pollutant property	Subpart A BCT effluent limitations: Maximum for any 1 day	Subpart A BCT effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	2.1	0.61
COD	9.5	5.8
TSS	2.5	0.70
Oil and grease	0.91	0.26
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	Subpart A BAT effluent limitations: Maximum for any 1 day	Subpart A BAT effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1,000 lb) of raw material	
BOD5	2.1	0.61
COD	9.5	5.8
TSS	2.5	0.70
Oil and grease	0.91	0.26
Total chromium	0.053	0.015
TKN	2.3	0.66
Ammonia	0.77	0.22
Phenol	0.015	0.0043
Sulfide (mg/l)	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.24 New Source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	Subpart A NSPS effluent limitations: Maximum for any 1 day	Subpart A NSPS effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1,000 lb) of raw material	
BOD5	2.1	0.61
COD	9.5	5.8
TSS	2.5	0.70
Oil and grease	0.91	0.26
Total chromium	0.053	0.015
TKN	2.3	0.66
Ammonia	0.77	0.22
Phenol	0.015	0.0043
Sulfide (mg/l)	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.25 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Pollutant or pollutant property	Subpart A PSES effluent limitations: Maximum for any 1 day	Subpart A PSES effluent limitations: Average of daily values for 30 consecutive days
	milligrams per liter (mg/l)	
Total chromium	6	3
Ammonia	136	68
Sulfide	0.0	0.0
pH	Within the range of 7.0 to 10.0 at all times.	

In cases when POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance.

Pollutant or pollutant property	Subpart A PSES effluent limitations: Maximum for any 1 day	Subpart A PSES effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
Total chromium	0.068	0.18
Ammonia	4.0	2.0
Sulfide	0.0	0.0

§ 425.26 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Pollutant or pollutant property	Subpart A PSNS Effluent Limitations: Maximum for any 1 day	Subpart A PSNS Effluent Limitations: Average of daily values for 30 consecutive days
	milligrams per liter (mg/l)	
BOD5	74	21
COD	325	200
TSS	84	24
Oil and Grease	32	9
Total Chromium	1.8	0.5
TKN	79	23
Ammonia	26	7.5
Phenol	0.53	0.15
Sulfide	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance.

Pollutant or pollutant property	Subpart A PSNS Effluent Limitations: Maximum for any 1 day	Subpart A PSNS Effluent Limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	2.1	0.61
COD	9.5	5.8
TSS	2.5	0.70
Oil and Grease	0.91	0.26
Total Chromium	0.053	0.015
TKN	2.3	0.66
Ammonia	0.77	0.22
Phenol	0.015	0.0043
Sulfide	0.0	0.0

Subpart B—Hair Save, Chrome Tan, Retan-Wet Finish Subcategory

§ 425.30 Applicability; description of the hair save, chrome tan, retan-wet finish subcategory.

This subpart applies to discharges to waters of the United States and introductions of pollutants into publicly owned treatment works from any

tannery which processes raw or cured cattle or cattle-like hides into finished leather by hair save unhairing, chrome tanning, and retan-wet finishing.

§ 425.31 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

	Subpart B BPT Effluent Limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	8.2	4.1
TSS	13.4	6.7
Total Chromium	0.28	0.14
Oil and Grease	2.2	1.1
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT):

	Subpart B BCT effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	2.3	0.65
COD	10.0	6.2
TSS	2.6	0.74
Oil and grease	1.0	0.28
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

	Subpart B BAT effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	2.3	0.65
COD	10.0	6.2
TSS	2.6	0.74
Oil and grease	1.0	0.28
Total chromium	0.053	0.015
TKN	2.4	0.69
Ammonia	0.81	0.23
Phenol	0.016	0.0046
Sulfide (mg/1)	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.34 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

	Subpart B NSPS effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	2.3	0.65
COD	10.0	6.2
TSS	2.6	0.74
Oil and grease	1.0	0.28
Total chromium	0.053	0.015
TKN	2.4	0.69
Ammonia	0.81	0.23
Phenol	0.016	0.0046
Sulfide (mg/1)	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.35 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

	Subpart B PSES effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/1)	
Total chromium	6	3
Ammonia	138	69
Sulfide	0.0	0.0
pH	Within the range of 7.0 to 10.0 at all times.	

In cases when POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance.

	Subpart B PSES effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
Total chromium	0.19	0.093
Ammonia	4.3	2.1
Sulfide	0.0	0.0

§ 425.36 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

	Subpart B PSNS effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	milligrams per liter (mg/1)	
BOD5	74	21
COD	325	200
TSS	84	24
Oil and Grease	32	9
Total Chromium	1.8	0.5
TKN	79	23
Ammonia	26	7.5
Phenol	0.53	0.15
Sulfide	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance.

	Subpart B PSNS effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) raw material	
BOD5	2.3	0.65
COD	10.0	6.2
TSS	2.6	0.74
Oil and grease	1.0	0.28
Total chromium	0.053	0.015
TKN	2.4	0.69
Ammonia	0.81	0.23
Phenol	0.016	0.0046
Sulfide	0.0	0.0

Subpart C—Hair Save, Non-Chrome Tan, Retan-Wet Finish Subcategory

§ 425.40 Applicability: Description of the hair save, non-chrome tan, retan-wet finish subcategory.

This subpart applies to discharges to waters of the United States and introductions of pollutants into publicly owned treatment works from any tannery which processes raw or cured cattle or cattle-like hides into finished leather by hair save unhairing, vegetable tanning or alum, syntans, oils, and other agents for tanning, and retan-wet finishing.

§ 425.41 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT)

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

	Subpart C BPT effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	6.0	3.0
TSS	9.6	4.8
Total Chromium	0.20	0.10
Oil and Grease	1.7	0.83
ph	Within the range of 6.0 to 9.0 at all times.	

§ 425.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT):

	Subpart C BCT effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	1.6	0.47
COD	7.3	4.5
TSS	1.9	0.54
Oil and grease	0.70	0.20
pH	Within the range or 6.0 to 9.0 at all times.	

§ 425.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

	Subpart C BAT effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	1.6	0.47
COD	7.3	4.5
TSS	1.9	0.54
Oil and grease	0.70	0.20
Total chromium	0.039	0.011
TKN	1.8	0.51
Ammonia	0.60	0.17
Phenol	0.12	0.0034
Sulfide (mg/1)	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.44 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

	Subpart C NSPS effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
*BOD5	1.6	0.47
COD	7.3	4.5
TSS	1.9	0.54
Oil and grease	0.70	0.20
Total chromium	0.039	0.011
TKN	1.8	0.51
Ammonia	0.60	0.17
Phenol	0.012	0.0034
Sulfide (mg/1)	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

§425.45 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR § 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for existing sources (PSES).

	Subpart C PSES effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/1)	
Total chromium	6	3
Ammonia	132	66
Sulfide	0.0	0.0
pH	Within the range of 7.0 to 10.0 at all times.	

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance.

	Subpart C PSES effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
Total chromium	0.14	0.068
Ammonia	3.0	1.5
Sulfide	0.0	0.0

§ 425.46 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

	Subpart C PSNS effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/1)	
BOD5	74	21
COD	325	200
TSS	84	24
Oil and grease	32	9
Total chromium	1.8	0.5
TKN	79	23
Ammonia	26	7.5
Phenol	0.53	0.15
Sulfide	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance.

	Subpart C PSNS effluent limitations	
Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	1.6	0.47
COD	7.3	4.5
TSS	1.9	0.54

Pollutant or pollutant property	Subpart C PSNS effluent limitations: Maximum for any 1 day	Subpart C PSNS effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
Oil and grease	0.70	0.20
Total chromium	0.039	0.011
TKN	1.8	0.51
Ammonia	0.60	0.17
Phenol	0.012	0.0034
Sulfide	0.0	0.0

Subpart D—Retan-Wet Finish Subcategory

§ 425.50 Applicability; description of the retan-wet finish subcategory.

This subpart applies to discharges to waters of the United States and introductions of pollutants into publicly owned treatment works from any tannery which processes previously tanned hides, skins, or splits into finished leather by retan-wet finishing.

§ 425.51 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	Subpart D BPT effluent limitations: Maximum for any 1 day	Subpart D BPT effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	2.8	1.3
TSS	4.2	2.1
Total chromium	0.085	0.043
Oil and grease	0.70	0.35
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT):

Pollutant or pollutant property	Subpart D BCT effluent limitations: Maximum for any 1 day	Subpart D BCT effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	0.81	0.23
COD	3.5	2.2
TSS	0.91	0.26
Oil and grease	0.35	0.10
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	Subpart D BAT effluent limitations: Maximum for any 1 day	Subpart D BAT effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	0.81	0.23
COD	3.5	0.2
TSS	0.91	0.26
Oil and grease	0.35	0.10
Total chromium	0.018	0.005
TKN	0.84	0.24
Ammonia	0.28	0.081
Phenol	0.0056	0.0016
Sulfide (mg/1)	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.54 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	Subpart D NSPS effluent limitations: Maximum for any 1 day	Subpart D NSPS effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BPD5	0.81	0.23
COD	3.5	2.2
TSS	0.91	0.26
Oil and grease	0.35	0.10
Total chromium	0.018	0.005
TKN	0.84	0.24
Ammonia	0.28	0.081
Phenol	0.0056	0.0016
Sulfide (mg/1)	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.55 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Pollutant or pollutant property	Subpart D PSES effluent limitations: Maximum for any 1 day	Subpart D PSES effluent limitations: Average of daily values for 30 consecutive days
	Milligrams per liter (mg/1)	
Total chromium	6	3
Ammonia	156	78
Sulfide	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance.

Pollutant or pollutant property	Subpart D PSES effluent limitations: Maximum for any 1 day	Subpart D PSES effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
Total chromium	0.066	0.033
Ammonia	1.7	0.85
Sulfide	0.0	0.0

§ 425.56 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Pollutant or pollutant property	Subpart D PSNS effluent limitations: Maximum for any 1 day	Subpart D PSNS effluent limitations: Average of daily values for 30 consecutive days
	milligrams per liter (mg/l)	
BOD5	74	20
COD	325	200
TSS	84	24
Oil and grease	32	9
Total chromium	1.8	0.5
TKN	79	23
Ammonia	26	7.5
Phenol	0.53	0.15
Sulfide	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance.

Pollutant or pollutant property	Subpart D PSNS effluent limitations: Maximum for any 1 day	Subpart D PSNS effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1,000 lb) of raw material	
BOD5	0.81	0.23
COD	3.5	2.2
TSS	0.91	0.26
Oil and grease	0.35	0.10
Total chromium	0.018	0.005
TKN	0.84	0.24
Ammonia	0.28	0.081
Phenol	0.0056	0.0016
Sulfide	0.0	0.0

Subpart E—No Beamhouse Subcategory

§ 425.60 Applicability; description of the no beamhouse subcategory.

This subpart applies to discharges to waters of the United States and introductions of pollutants into public owned treatment works from any tannery which processes cattle hides, sheepskins, pigskins, or splits (hair previously removed and pickled) into finished leather by chrome or non-chrome tanning, and retan-wet finishing.

§ 425.61 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	Subpart E BPT effluent limitations: Maximum for any 1 day	Subpart E BPT effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	5.0	2.5
TSS	8.0	4.0
Total chromium	0.17	0.083
Oil and grease	1.4	0.69
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT):

Pollutant or pollutant property	Subpart E BCT effluent limitations: Maximum for any 1 day	Subpart E BCT effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	1.4	0.40
COD	6.2	3.8
TSS	1.6	0.46
Oil and grease	0.60	0.17
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	Subpart E BAT effluent limitations: Maximum for any 1 day	Subpart E BAT effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw materials	
BOD5	1.4	0.40
COD	6.2	3.8
TSS	1.6	0.46
Oil and grease	0.60	0.17
Total chromium	0.034	0.0096
TKN	1.5	0.43
Ammonia	0.49	0.14
Phenol	0.010	0.0029
Sulfide (mg/1)	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.64 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	Subpart E NSPS effluent limitations: Maximum for any 1 day	Subpart E NSPS effluent limitations: Average of daily values for 30 consecutive days
	kq/kkq (or lb/1000 lb) of raw material	
BOD5	1.4	0.40
COD	6.2	3.8
TSS	1.6	0.46
Oil and Grease	0.60	0.17
Total Chromium	0.034	0.0096
TKN	1.5	0.43
Ammonia	0.49	0.14
Phenol	0.010	0.0029
Sulfide (mg/1)	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.65 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Pollutant or pollutant property	Subpart E PSES Effluent Limitations: Maximum for any 1 day	Subpart E PSES Effluent Limitations: Average of daily values for 30 consecutive days
	milligrams per liter (mg/l)	
Total Chromium	6	3
Ammonia	156	78
Sulfide	0.0	0.0
pH	Wthin the range of 6.0 to 10.0 at all times.	

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance:

Pollutant or pollutant property	Subpart E PSES Effluent Limitations: Maximum for any 1 day	Subpart E PSES Effluent Limitations: Average of daily values for 30 consecutive days
	kq/kkq (or lb/1000 lb) of raw material	
Total Chromium	0.12	0.058
Ammonia	3.0	1.5
Sulfide	0.0	0.0

§ 425.66 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Pollutant or pollutant property	Subpart E PSNS Effluent Limitations: Maximum for any 1 day	Subpart E PSNS Effluent Limitations: Average of daily values for 30 consecutive days
	milligrams per liter (mg/l)	
BOD5	74	21
COD	325	200
TSS	84	24
Oil and Grease	32	9
Total Chromium	1.8	0.5
TKN	79	23
Ammonia	26	7.5
Phenol	0.53	0.15
Sulfide	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

In cases where POTWs find it necessary to impose mass limitations,

the following equivalent mass limitations are provided as guidance:

Pollutant or pollutant property	Subpart E PSNS Effluent Limitations: Maximum for any 1 day	Subpart E PSNS Effluent Limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	1.4	0.40
COD	6.2	3.8
TSS	1.6	0.46
Oil and Grease	0.60	0.17
Total Chromium	0.034	0.0096
TKN	1.5	0.43
Ammonia	0.49	0.14
Phenol	0.010	0.0029
Sulfide	0.0	0.0

Subpart F—Through-the-Blue Subcategory

§ 425.70 Applicability: description of the through-the-blue subcategory.

This subpart applies to discharges to waters of the United States and introductions of pollutants into publicly owned treatment works from any tannery which processes raw or cured cattle or cattle-like hides through the blue-tanned state by hair pulp unhairing, and chrome tanning; no retan-wet finishing is done.

§ 425.71 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	Subpart F BPT Effluent Limitations: Maximum for any 1 day	Subpart F BPT Effluent Limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	4.0	2.0
TSS	6.6	3.3
Total Chromium	0.14	0.068
Oil and Grease	1.1	0.56
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT):

Pollutant or pollutant property	Subpart F BCT Effluent Limitations: Maximum for any 1 day	Subpart F BCT Effluent Limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	1.5	0.44
COD	6.8	4.2
TSS	1.8	0.50
Oil and Grease	0.67	0.19
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425. Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	Subpart F BAT Effluent Limitations: Maximum for any 1 day	Subpart F BAT Effluent Limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	1.5	0.44
COD	6.8	4.2
TSS	1.8	0.50
Oil and Grease	0.67	0.19
Total Chromium	0.035	0.010
TKN	1.6	0.47
Ammonia	0.56	0.16
Phenol	0.011	0.0031
Sulfide (mg/l)	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.74 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	Subpart F NSPS Effluent Limitations: Maximum for any 1 day	Subpart F NSPS Effluent Limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	1.5	0.44
COD	6.8	4.2
TSS	1.8	0.50
Oil and Grease	0.67	0.19
Total Chromium	0.035	0.010
TKN	1.6	0.47
Ammonia	0.56	0.16
Phenol	0.011	0.0031
Sulfide (mg/l)	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.75 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Pollutant or pollutant property	Subpart F PSES effluent limitations: Maximum for any 1 day	Subpart F PSES effluent limitations: Average of daily values for 30 consecutive days
	milligrams per liter (mg/1)	
Total chromium	6	3
Ammonia	120	60
Sulfide	0.0	0.0
pH	Within the range of 7.0 to 10.0 at all times.	

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance.

Pollutant or pollutant property	Subpart F PSES effluent limitations: Maximum for any 1 day	Subpart F PSES effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
Total chromium	0.13	0.063
Ammonia	2.6	1.3
Sulfide	0.0	0.0

§ 425.76 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Pollutant or pollutant property	Subpart F PSNS effluent limitations: Maximum for any 1 day	Subpart F PSNS effluent limitations: Average of daily values for 30 consecutive days
	milligrams per liter (mg/1)	
BOD5	74	21
COD	325	200
TSS	84	24
Oil and grease	32	9

Pollutant or pollutant property	Subpart F PSNS effluent limitations: Maximum for any 1 day	Subpart F PSNS effluent limitations: Average of daily values for 30 consecutive days
	milligrams per liter (mg/1)	
Total chromium	1.8	0.5
TKN	79	23
Ammonia	26	7.5
Phenol	0.53	0.15
Sulfide	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance.

Pollutant or pollutant property	Subpart G PSNS effluent limitations: Maximum for any 1 day	Subpart G PSNS effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	1.5	0.44
COD	6.8	4.2
TSS	1.8	0.50
Oil and grease	0.67	0.19
Total chromium	0.035	0.010
TKN	1.6	0.47
Ammonia	0.56	0.16
Phenol	0.011	0.0031
Sulfide	0.0	0.0

Subpart G—Shearling Subcategory

§ 425.80 Applicability; description of the shearling subcategory.

This subpart applies to discharges to waters of the United States and introductions of pollutants into publicly owned treatment works from any tannery which processes raw or cured sheep or sheep-like skins with the wool or hair retained into finished leather by chrome tanning, and retan-wet finishing: or a wool pullery which processes raw or cured sheep or sheep-like skins by first removing the wool and selling or disposing of it as a solid and pickling the skin, which is then used by another tannery for further processing.

§ 425.81 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	Subpart G BPT effluent limitations: Maximum for any 1 day	Subpart G BPT effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	20.8	10.4
TSS	33.6	16.8
Total Chromium	0.70	0.35
Oil and Grease	5.8	2.9
pH	Within the range of 6.0 to 9.0 at all times.	

425.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT):

Pollutant or pollutant property	Subpart G BCT effluent limitations: Maximum for any 1 day	Subpart G BCT effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	6.7	1.9
COD	29.8	18.0
TSS	7.7	2.2
Oil and grease	2.9	0.83
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	Subpart G BAT effluent limitations: Maximum for any 1 day	Subpart G BAT effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	6.7	1.9
COD	29.8	18.0
TSS	7.7	2.2
Oil and grease	2.9	0.83
Total chromium	0.16	0.046
TKN	7.4	2.1
Ammonia	2.4	0.69
Phenol	0.049	0.014
Sulfide (mg/1)	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.84 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	Subpart G NSPS effluent limitations: Maximum for any 1 day	Subpart G NSPS effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	6.7	1.9
COD	29.8	18.0
TSS	7.7	2.2
Oil and grease	2.9	0.83
Total chromium	0.16	0.048
TKN	7.4	2.1
Ammonia	2.4	0.69
Phenol	0.049	0.014
Sulfide (mg/1)	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

§ 425.85 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.13, any existing source subject to this subpart which introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

Pollutant or pollutant property	Subpart G PSES effluent limitations: Maximum for any 1 day	Subpart G PSES effluent limitations: Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
Total chromium	6	3
Ammonia	52	26
Sulfide	0.0	0.0
pH	Within the range of 6.0 to 10.0 at all times.	

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance.

Pollutant or pollutant property	Subpart G PSES effluent limitations: Maximum for any 1 day	Subpart G PSES effluent limitations: Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
Total chromium	0.55	0.28
Ammonia	4.8	2.4
Sulfide	0.0	0.0

§ 425.86 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart which introduces pollutants into

a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

Pollutant or pollutant property	Subpart G PSNS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Milligrams per liter (mg/l)	
BOD5	74	21
COD	325	200
TSS	84	24
Oil and grease	32	9
Total chromium	1.8	0.5
TKN	79	23
Ammonia	26	7.5
Phenol	0.53	0.15
Sulfide	0.0	0.0
pH	Within the range of 6.0 to 9.0 at all times.	

In cases where POTWs find it necessary to impose mass limitations, the following equivalent mass limitations are provided as guidance.

Pollutant or pollutant property	Subpart G PSNS effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or lb/1000 lb) of raw material	
BOD5	6.7	1.9
COD	29.8	18.0
TSS	7.7	2.2
Oil and grease	2.9	0.83
Total chromium	0.16	0.046
TKN	7.4	2.1
Ammonia	2.4	0.69
Phenol	0.049	0.014
Sulfide (mg/1)	0.0	0.0

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July 2, 1979

Part IV

Department of Transportation

Coast Guard

Lights and Retroreflective Material for Life Preservers and Other Lifesaving Equipment

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 25, 33, 35, 75, 78, 94, 97, 108, 109, 161, 164, 167, 180, 185, 192, 196

[CGD 76-028]

Lights and Retroreflective Material for Life Preservers and Other Lifesaving Equipment

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These regulations require that life preservers carried on most vessels engaged in ocean, coastwise, or Great Lakes service be equipped with approved personal flotation device lights and retroreflective material. The regulations also require life preservers carried on vessels engaged in lakes, bays, sounds, or river service to have approved retroreflective material. The regulations are based upon recommendations resulting from investigations of four vessel casualties and upon a Coast Guard study entitled "Comparative Evaluation of Visual Distress Signals". The recommendations were that life preservers be provided with lights for use in locating survivors of vessel casualties, and in the most recent investigation a recommendation was made that life preservers be provided with retroreflective material. Use of lights and retroreflective material should significantly increase the probability of detecting survivors of vessel casualties at night.

EFFECTIVE DATE: These amendments become effective on August 1, 1979.

ADDRESSES: 1. As explained more fully below, comments on these rules may be submitted to Commandant (G-CMC/81), (CGD 76-28), U.S. Coast Guard, Washington, D.C. 20590.

2. The Final Evaluation for these regulations, comments received on the regulations, and copies of the related Coast Guard study and the standards incorporated by reference into these regulations are available for examination and copying at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Commander John P. Deleonardis, Office of Merchant Marine Safety (G-MVI-2/83), Room 8300, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2183).

SUPPLEMENTARY INFORMATION: On May 23, 1977, the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (42 FR 26229). A supplemental notice of proposed rule making was also published in the **Federal Register** of September 12, 1977 (42 FR 45694). The supplemental notice proposed certain additions and revisions to the May 23 notice and announced a public hearing on the proposals which was subsequently held in Washington, D.C., on September 30, 1977. The comment period on the rule making closed on November 4, 1977, and a total of 47 written comments were received.

Final Evaluation

1. These regulations are considered to be "nonsignificant" and, accordingly, a final evaluation has been prepared as required by the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11040-11045). The DOT Order requires that each evaluation include an economic analysis which quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, State and local governments, as well as the anticipated benefits and impacts of the regulations.

2. The impact of administering the approval programs and checking for compliance with the carriage, installation, and replacement requirements will be absorbed with existing Coast Guard resources. Total costs of equipping life preservers with PFD lights and retroreflective material are expected to be approximately $3,070,000. Annual replacement costs are expected to be approximately $920,000.

3. The principal economic benefits resulting from the use of lights and retroreflective material on life preservers will be those associated with the number of additional lives saved in vessel casualties. Coast Guard data compiled concerning search and rescue incidents in 1978 indicates that approximately 500 incidents involving commercial vessels or their occupants occurred in which night searches were conducted without success in locating a search target. Use of lights and retroreflective material required by these regulations should significantly increase the probability of detecting survivors of vessel casualties at night.

Drafting Information

The principal persons involved in drafting these regulations are: Lieutenant Commander Paul K. Anderson and Robert L. Markle, Office of Merchant Marine Safety, and William R. Register, Office of the Chief Counsel.

Discussion of the Regulations and Their Applicability

1. These regulations apply, with certain exceptions, to all vessels that are inspected under the provisions of Title 46, Code of Federal Regulations. This includes tank vessels, passenger vessels, cargo and miscellaneous vessels, mobile offshore units, nautical school ships, small passenger vessels (under 100 gross tons), and oceanographic vessels. However, these regulations do not apply to most foreign vessels. As explained in the general provisions of the regulations in Title 46, foreign vessels that are inspected by their own governments are not normally required to comply with those regulations. (*See, e.g.*, §§ 30.01-5, 70.05-3, 90.05-1, and 175.05-3 of Title 46.)

2. These regulations also apply to commercial uninspected vessels, including those carrying six or less passengers for hire. The lifesaving equipment regulations for commercial uninspected vessels are contained in Part 25 of Title 46. Part 25 allows these vessels a choice of carrying different types of life preservers.

3. The regulations require vessels engaged in ocean, coastwise, or Great Lakes service, except ferries and small passenger vessels, to have personal flotation device lights (PFD lights) on life preservers carried on board. The possibility that survivors of a casualty to one of these vessels could drift from the scene of the casualty before the arrival of help is always present because of the response time of search and rescue units for the areas in which these vessels operate. Use of PFD lights can aid in detection of survivors in these cases. As discussed in more detail below, ferries and certain small passenger vessels are not required to have PFD lights because of the limited routes and areas of operation of these vessels.

4. The regulations also require use of retroreflective material on life preservers. This requirement applies to vessels in all services including vessels in lakes, bays, sounds, or rivers service as well as vessels in ocean, coastwise, or Great Lakes service. Survivors of a casualty to a vessel in lakes, bays, sounds, or river service would in all probability not drift far from the scene of the casualty before the arrival of help. These vessels operate in areas that generally are within close range of search and rescue units or other vessels,

and retroreflective material can provide effective assistance in detection of survivors in these cases. Use of retroreflective material on life preservers of vessels in other services will also provide survivor detection capability in addition to detection capabilities afforded by PFD lights.

5. The amendments to Parts 161 and 164 contain approval specifications for lights used on personal flotation devices and for retroreflective material used on lifesaving equipment. Section 489 of Title 46, U.S. Code, requires that these items be approved by the Coast Guard; and these specifications set out design requirements, approval tests, and procedures for obtaining approval.

6. The specification in Part 164 for retroreflective material applies to all types of lifesaving equipment. Currently, the only requirements to use retroreflective material are the requirements in these regulations to use Type I material. Requirements to use Type I or Type II material on other types of lifesaving equipment may be proposed in the future.

7. The Coast Guard will begin accepting applications for approval of PFD lights and retroreflective material on the publication date of these regulations.

8. These regulations, upon becoming effective, will apply both to existing vessels and to vessels built after the effective date of the regulations. However, as discussed in more detail below, compliance with the carriage and installation requirements is being postponed until one year after the regulations are published in the **Federal Register.**

9. The regulations are based upon recommendations of the National Transportation Safety Board and marine boards of investigation involving the casualties to the SS Panoceanic Faith, MV Theresa F., F/V Fenwick Island, and SS C.V. Sea Witch—Esso Brussels, and upon the results of a study entitled "Comparative Evaluation of Visual Distress Signals" (Report No. CGD 47–78, dated August 1976). The specifications are also based in part upon Federal Specification L–S–300B entitled "Sheeting and Tape, Reflective: Nonexposed Lens, Adhesive Backing", and upon the other industry and Federal standards incorporated by reference into the specifications.

Discussion of Comments and Changes Made

A. General

1. Forty-seven comments were received in this rulemaking, in addition to oral comments presented at the public hearing. Most commenters addressed the carriage, installation, and replacement requirements. The principal concerns were with the cost and reliability of lights, stowage and theft problems associated with the carriage of lights, and the need and justification for making the regulations applicable to specific categories of vessels. These comments and the action taken on them are discussed in more detail below. Five technical comments were also received on each of the equipment specifications, and are likewise discussed in the following paragraphs.

2. The final rules contain various changes that have been made in response to comments received, and on the basis of further analysis of the proposed rules within the Coast Guard. Most of the changes were minor in nature or were made in order to improve certain requirements or to delete rules that were shown to be arbitrary or unnecessarily rigorous. None of the changes will significantly increase the cost of equipment or of approval and production testing.

3. Although a public comment period has already been provided in this rulemaking, an additional opportunity for comments, principally on the changes made, is nevertheless desirable to assure that the rules as revised represent workable and reasonable requirements and procedures. Accordingly, persons wishing to comment may do so by submitting written comments to the address listed in the ADDRESSES section of this preamble. Commenters should include their names and addresses, identify the docket number of this rulemaking (CGD 76–28) and give reasons for the comments. Based upon comments received, the regulations may be further revised or additional regulations may be issued.

B. Carriage, Installation, and Replacement

1. Four commenters recommended that work vests not be required to have PFD lights and retroreflective material. Neither the proposed nor the final regulations applies to work vests. Section 25.25–13 refers to "buoyant vests." However, these are approved under Subparts 160.047, 160.052, and 160.060 of Title 46. Work vests are approved under Subpart 160.053 of Title 46.

2. Six commenters were concerned that the regulations do not apply to recreational boats. Visual detection devices for recreational boats are being considered in separate rule making. Notices of proposed rule making concerning the carriage of visual distress signals on recreational boats were published in **Federal Register** editions of April 10, 1978 (43 FR 15118) and October 23, 1978 (43 FR 49451).

3. Three commenters stated that adding PFD lights to life preservers would create a stowage problem on smaller vessels because of difficulty in building larger storage boxes to accommodate them. The Coast Guard has reviewed several PFD light designs and none of them are large enough to pose stowage problems. It is noted in this regard, however, that a maximum size limitation has been added to the final rules as a new § 161.012–7(h).

4. Seven commenters stated that pilferage of lights by passengers would be a problem. Life preservers are normally stowed in closed lockers, closets, and boxes, all of which are in plainly visible locations. An attempt at theft would be difficult in such locations. Also, the attempt would be complicated by the fact that, as required by these regulations, each light will be securely fastened to a life preserver.

5. Four commenters stated that the cost of PFD lights and retroreflective material would be excessive. One of the commenters also questioned the installation and maintenance costs. The cost of retroreflective material will be approximately $3.00 per life preserver. Additionally, annual replacement costs are expected to be about $0.70 per life preserver, assuming a 5 year lifetime for material. The cost of PFD lights is expected to be approximately $3.00 per light, assuming that inexpensive lights are selected for vessel use. It is expected that most lights will have to be replaced on a three year schedule, and that replacement costs will be about $1.00 per year per life preserver. The Final Evaluation contains additional discussion of the costs involved with these regulations.

6. Five commenters stated that PFD lights are an unnecessary expense for vessels that operate during daylight hours only and, therefore, want exemptions for these vessels. These comments have not been adopted. Searches for surviviors of vessels that operate in daylight hours only could quite possibly extend into nighttime, thus, making the availability of PFD lights on these vessels highly desirable.

7. Two commenters questioned the need for making the regulations apply to white water, river running rafts. The Coast Guard is currently preparing regulations concerning white water rafts and the need for visual detection

requirements on these craft will be considered in that rule making.

8. Four commenters questioned the reliability of battery powered PFD lights after exposure to environmental conditions during stowage on board ship. Two principal reasons for light failure are unreliable power sources and physical damage to the light. Although care in handling and stowage can prevent physical damage, unreliable power sources are nevertheless a continuing possibility. Revisions have been made in the final rules, however, to improve the reliability of power sources. Section 161.012–7(c) and the corresponding operations requirements, as revised in the final rules, require replacement of a light or its power source on or before the date that the power source reaches one half of its storage life; whereas, the proposed rules required a storage life of at least three years with replacement within three years after the power source was manufactured. Section 161.012–3(b) also clarifies the term "storage life" as it was used in the proposed rules. These revisions are based on similar requirements that apply to power sources required for Coast Guard approved emergency position indicating radio beacons (EPIRB's). Subpart 161.011 of Title 46 contains the EPIRB approval procedures.

It is recognized that a small percentage of lights that are designed to meet the construction and performance requirements in these regulations could nevertheless prove to be unreliable in service; and, accordingly, the testing requirements in § 161.012–13 provide for regular production testing to improve reliability. Also the Coast Guard plans to institute an inspection program for randomly testing PFD lights after they have been in service for varying periods in order to provide a further check on reliability.

9. One commenter recommended adding requirements that batteries in PFD lights be tested during each abandon ship drill. This recommendation has not been adopted. Many battery powered lights are designed for single use and, thus, would have to be replaced after activation. Lights with batteries that can be used more than once would have their effective lives shortened by frequent testing because of resulting battery and bulb deterioration.

10. Several commenters stated that the regulations should not apply to ferries and small passenger vessels. The principal reasons provided in support were that (1) the costs involved in complying with the regulations would far outweigh any safety benefits involved, and (2) PFD lights and retroreflective material are not needed on these vessels since they operate on established, well traveled routes and other vessels would be able to provide assistance in the event of a major casualty. The final rules have been partially modified in accordance with these comments to allow ferries and small passenger vessels certificated only for limited routes (i.e., routes not extending more than 20 miles from a harbor of safe refuge) to operate without PFD lights. However, the requirement to have retroreflective material for life preservers on these vessels has been retained. As explained in the Discussion of the Regulations, retroreflective material can provide effective assistance in detection of survivors on all vessels regardless of the service in which they are engaged. The costs to comply with the regulations should nevertheless be reduced substantially for ferries and small passenger vessels on limited routes because of the relaxed carriage requirements for PFD lights.

11. Two commenters recommended that the date for complying with the carriage and installation requirements be extended beyond the one year postponement adopted in the final rules. One commenter recommended a 5 year delay in order to provide sufficient time to replace life preservers currently in use with those having retroreflective material attached. The other commenter recommended a postponement of one year or until a vessel's next inspection, whichever occurs later, in order to give sufficient time for vessels in overseas service to comply with the regulations. These comments have not been adopted. PFD lights and retroreflective material will be readily available and capable of attachment to existing life preservers. Accordingly, a postponement of more than one year is not warranted.

12. Seven comments were received questioning whether adding retroreflective material to life preservers would reduce their buoyancy. The material will be light enough as to have little or no effect on buoyancy.

C. *PFD Light Specification*

1. *Sections 161.012–5 and 161.012–11(a).* The Coast Guard has recently proposed general approval procedures, production inspection and test procedures, and standards for accepting independent laboratories for testing certain equipment requiring Coast Guard approval. These proposed procedures were published in the **Federal Register** of October 23, 1978 (43 FR 49440–45). The procedural rules in § 161.012–5 for approving PFD lights are either included in or are consistent with the general procedures published on October 23, 1978. The general procedures, however, contain additional provisions which are not included in the approval procedures for PFD lights. In particular, the general procedures also contain recordkeeping and annual reporting provisions, standards for testing laboratories in addition to the standards in § 161.012–11(a), and provisions describing in detail the contents of equipment plans and tests reports submitted during the application process. These additional procedures, when adopted as final rules, will also apply to approval process for PFD lights. A copy of the proposed general procedures published on October 23, 1978, may be obtained from the Commandant (G–MMT–3/83) at the address listed under *ADDRESSES* in this preamble.

2. *Section 161.012–7(b).* One commenter recommended adding requirements that PFD lights be designed with non-replaceable power sources, and that they be designed for permanent attachment to a PFD. These recommendations have not been adopted. Section 161.012–7(b) requires that a light and its power source be designed to be removed and replaced without causing damage to the PFD. The purpose of this requirement is to allow replacement of a light or power source without having to discard the PFD.

3. *Section 161.012–7(c).* One commenter recommended that the 3 year minimum storage life required by proposed § 161.012–7(c) for the power source of a PFD light be reduced to one year in order to allow a wider selection of batteries and a wider range of options for the user. As explained previously, § 161.012–7(c) has been revised in the final rules to require that the expiration date of a light's power source be one half of its storage life. This requirement, as revised, allows selection of power sources (preferably high performance power sources), that have relatively short useful lives, as well as power sources that are satisfactory for much longer periods.

4. *Section 161.012–7(d).* One commenter recommended that the requirement in proposed § 161.012–7(d) that each PFD light be capable of preventing leakage of chemicals from its container should be limited to periods of storage since some water activated lights do discharge chemicals when they are operating. This was the intent of proposed § 161.012–7(d) and the final rule has been clarified accordingly. Chemicals discharged in storage could

damage the PFD, but when the light is operating in the water the chemicals become sufficiently diluted as not to be harmful.

5. *Section 161.012–7(g).* Two commenters recommended adding a requirement specifying the directions in which a PFD light should be capable of being seen. One commenter suggested all directions in the upper hemisphere or all directions in a horizontal plane. The other suggested 180° above and 360° in a horizontal plane. Section 161.012–7(g) contains a requirement that each light be designed so that when attached to a PFD its light beam, at a minimum, is visible in an arc of 180° above or in front of the wearer. This requirement was proposed in the supplemental notice of proposed rule making. As explained in the supplemental notice, tests were conducted by the Coast Guard in May 1977 at Coast Guard Air Station, Elizabeth City, North Carolina, to determine the effectiveness of various types of lights. The tests showed that lights meeting the arc of visibility requirement in § 161.012–7(g) were adequate to allow detection by observers in simulated search situations. Accordingly, requiring different or additional arcs of visibility would be unnecessary.

6. *Section 161.012–7(h).* Two commenters recommended adding a maximum size limit for PFD lights. One commenter suggested a 150 mm (6 in.) length and a 75 mm (3 in.) diameter. The other suggested dimensions of 60 mm (2.4 in.) by 60 mm by 200 mm (8 in.). The Coast Guard has reviewed the designs of several lights and has not found any of them to be oversized. However, in order to preclude future use of oversized lights, § 161.012–7(h) has been added in the final rules to require that each light and its power source be capable of fitting into a cylindrical space that is 150 mm long and 75 mm in diameter.

7. *Section 161.012–7(i).* One commenter recommended adding an upper weight limit of 200 g (7 oz.) for lights. The light designs reviewed by the Coast Guard were all of lights under 225 g (8 oz.). This upper weight limit is considered reasonable and should not materially affect the buoyancy of a PFD. In order to preclude future use of lights of abnormal weight, an upper weight limit of 225 g. is imposed in § 161.012–7(i) of the final rules.

8. *Section 161.012–7(j).* Two commenters recommended adding a requirement for PFD lights to be attached to PFD's by means of lanyards. One commenter suggested a minimum length of 450 mm (18 in.) and the other suggested 600 mm (24 in.). These comments have been adopted but with some modification. Section 161.012–7(j), as added in the final rules, requires that each light designed to operate while detached from a PFD must have a lanyard of at least 750 mm (30 in.) in length. The longer lanyard length was chosen as the minimum length needed to allow a PFD wearer to hold the light at arm's length in order to help draw the attention of a searcher.

9. *Sections 161.012–7(k) and 161.012–9(b).* One commenter recommended adding a requirement that the freeboard of a PFD light be at least 40 mm (1.5 in.), presumably to ensure that the light when floating in water can at least be seen at a distance of one nautical mile away as required by § 161.012–9(b). This recommendation has been adopted in part and incorporated into § 161.012–7(k). Section 161.012–7(k) has been added to the final rules to require that each light designed to operate while detached from a PFD must be capable of floating in water with its light source at or above the surface of the water. The purpose of this requirement is to ensure that a light, if detachable from its PFD, has the capability to remain sufficiently visible while in the water in order to allow detection from a distance. Requiring the light also to have the additional freeboard suggested by the commenter is unnecessary. The resulting increase in the visibility of the light would be negligible and would result in larger lights and additional manufacturing costs.

10. *Section 161.012–9(a).* One commenter recommended that the flash rate in proposed § 161.012–9(a) be changed from a maximum period of less than 1 second between flashes when first activated to a rate of one flash per second plus or minus 10 percent. The basis for the recommendation was that the revised flash rate would coincide with flash rates of products that are commercially available on the open market, including certain Coast Guard approved products. This recommendation has been adopted but with some modification. Section 161.012–9(a) has been revised to require a flash rate of between 50 and 70 flashes per minute. This flash rate is the same as that initially required for floating electric water lights approved under Subpart 161.010 of Title 46.

11. *Section 161.012–9(b).* One commenter recommended adding a requirement for lights to be high intensity flashing white lights in order to increase their effectiveness. This recommendation has not been adopted. Lights meeting the visibility requirement in § 161.012–9(b) are adequate to allow detection in a search and rescue operation. Requiring increased light intensity would result in a significant increase in the cost of the light.

12. *Sections 161.012–9(b) and 161.012–11(b).* One commenter recommended adding a requirement that PFD lights be designed to shine within 5 minutes after activation. This comment has been adopted but with some modification. Some lights, especially those that are water activated, can take some time to turn on and shine with full design intensity. Accordingly, § 161.012–9(b) hss been revised in the final rules to require that a light come on within 2 minutes after activation and be able to meet the visibility requirement in § 161.012–9(b) within 5 minutes after activation. Section 161.012–11(b) has also been revised to provide a check for performance during these time periods.

13. *Section 161.012–9(c).* One commenter recommended that the requirement in § 161.012–9(c) that each PFD light be designed to operate underwater continuously for eight hours should be revised to require continuous operation for at least 15 hours. This comment has not been adopted. An eight hour period should provide sufficient time in which to locate survivors in the water when taking into account the time needed to reach search areas in a search and rescue operation.

14. *Sections 161.012–9(c) and 161.012–11(c).* One commenter objected to the requirement in § 161.012–9(c) for 8 hours continuous underwater operation on the basis that some lights need a supply of air in order to operate. Lights that need a continuous supply of air cannot be successfully used as PFD lights since they will be frequently submerged when used in breaking waves. However, a light that requires only an intermittent supply of air could be successfully used in an ocean environment. Accordingly, §§ 161.012–9(c) and 161.012–11(c) have been revised in the final rules to allow their use.

15. *Sections 161.012–9(c) and 161.012–11(c).* One commenter recommended adding a requirement for lights to be capable of operating in a temperature range of 0° C. (32° F.) to 30° C. (86° F.). The commenter stated that this temperature range would take in account the varying temperatures found in a worldwide marine environment. This recommendation has been adopted, but with a modified temperature range. Sections 161.012–9(c) and 161.012–11(c) have been revised in the final rules to prescribe a temperature range of 15° ± 5° C (59° ± 9° F). Lights that can be operated in a 15° ± 5° C range over an extended period can also be

expected to operate in a 0° to 30° C range. The 15° ± 5° C range was selected in lieu of a 0° to 30° C range in order to facilitate approval testing.

16. *Section 161.012–9(d).* Section 161.012–9(d) requires that each PFD light be designed to operate both in sea water and in fresh water. One commenter recommended deletion of the requirement for operation in fresh water. This comment has not been adopted. Lights are needed on vessels operating on the Great Lakes as well as on vessels operating in salt water.

17. *Sections 161.012–9(f) and 161.012–11(c).* One commenter recommended that since storage temperatures in a marine environment are not generally controlled, PFD lights should be required to be capable of operation after storage in a temperature range of minus 40° C (−40° F) to 70° C (158° F). This comment has been adopted in § 161.012–9(f), but with a modified temperature range of minus 30° C (−22° F) to 65° C (149° F). This is the same temperature range prescribed for other lifesaving equipment currently approved by the Coast Guard. The approval test in § 161.012–11(c) has also been modified to provide a check for performance after storage at minus 30° C and 65° C.

18. *Sections 161.012–11(d) and 161.012–7(c).* Proposed § 161.012–11(d) required that individual approval tests be conducted on a sample light to determine whether the light meets the construction requirements in § 161.012–7. Testing to show compliance with the storage life requirements for power sources in § 161.012–7(c) could take several years if done properly. Accordingly, § 161.012–11(d) has been revised in the final rules to allow submission of technical data in lieu of test results in order to show compliance with § 161.012–7(c).

19. *Sections 161.012–15(b) and 161.012–7(c).* Since § 161.012–7(c), as revised, adds a requirement concerning the expiration date of the light's power source, § 161.012–15(b) has also been revised to require marking the power source with the expiration date. This marking is needed so that the user will know when the power source has to be replaced.

20. *Sections 161.012–17 and 161.012–7(a).* Section 161.012–17 has been added in the final rules to require that lights be provided with instructions on how to attach them to a PFD in a manner that complies with § 161.012–7(a). Compliance with § 161.012–7(a) might otherwise be less than uniform. In addition to requiring instructions, the Coast Guard plans to sponsor a meeting with light manufacturers and PFD manufacturers to discuss preferable methods of attaching PFD lights to life preservers. Persons desiring to attend or to be informed of the time and place of the meeting may contact Robert L. Markle at 202–426–1444 (or write to Commandant (G–MMT–3/83), U.S. Coast Guard, Washington, D.C. 20590, ATTN: Robert L. Markle.)

D. Retroreflective Material Specification

1. *Sections 164.018–5(a)(2), 164.018–11(a)(4)(iii), 164.018–11(b)(1) and 164.018–11(b)(2).* Federal Specification L–S–300B is incorporated by reference into this specification, whereas, L–S–300C was referenced in the proposed rules. Reference to L–S–300B rather than L–S–300C is necessary since L–S–330C has not yet been finalized. Changes have also been made in § 164.018–11(a)(4)(iii) and §§ 164.018–11 (b)(1) and (b)(2) to spell out test procedures in L–S–300C that were referenced in the proposed regulations but that are not in L–S–300B.

2. *Section 164.018–7.* As explained previously, the Coast Guard has recently proposed general approval procedures for testing certain equipment requiring Coast Guard approval. The procedural rules for retroreflective material are either included in or are consistent with the proposed general procedures. However, the general procedures also contain provisions describing in detail the contents of equipment plans and test reports submitted during the application process. These additional provisions, when adopted as final rules, will also apply to the approval process for retroreflective material.

3. *Table 164.018–9 and § 164.018–11(c).* Federal Specification L–S–300B and Federal Test Method Standard 370 both contain procedures for taking measurements of retroreflective materials. Since use of FTMS 370 is planned in the final version of L–S–300C, FTMS 370 terms have been added to Table 164.018–9 and § 164.018–11(c) allows the use of either L–S–300B or FTMS 370.

4. *Table 164.018–9 (reflective intensity values).* One commenter recommended that reflective intensity values of 10, 6, and 1 be prescribed in Table 164.018–9 for incidence angles of +45° in lieu of the Table values of 50, 25, and 1. The commenter stated that retroreflective material that has the reflective intensity he proposed could perform equally as well as material that has reflective intensity properties meeting the § 164.018–9 requirements, although about 75% more material would be needed per life jacket to achieve equivalent performance. This comment has not been adopted. The +45° incidence angles and corresponding reflective intensity values of 50, 25, and 1 were proposed in the supplemental notice of proposed rule making. As explained in the supplemental notice, tests conducted at Elizabeth City, North Carolina, in May 1977 showed the need for including these values in the Table. Subsequent Coast Guard testing at Elizabeth City in October 1977 showed specifically that material which has the reflective intensity proposed by the commenter could not be seen at wider angles of incidence; whereas, material meeting the reflective intensity requirements in § 164.018–9 was still clearly visible at the wider angles. The amounts and placement of material on the PFD's used in the test were as prescribed in these regulations. *See e.g.* § 33.35–25. Adding extra material in order to comply with § 164.018–9 would not be acceptable since the visible area on a PFD when worn in the water is generally not large enough to accommodate additional material. Also, the additional material would reduce the amount of the PFD's international orange surface, which is needed for purposes of daytime detection of a wearer.

5. *Table 164.018–9 (divergence angles).* One commenter recommended that the 2° divergence angles in Table 164.018–9 be increased in order to provide a check for adequate performance of material at wide divergence angles that would be encountered at sea. This comment has not been adopted. Contrary to the commenter's suggestion, wide divergence angles are not normally encountered in searches at sea because the observer is almost always near the light source used in the search.

6. *Section 164.018–9(b).* Proposed § 164.018–9(b) required that, in the case of retroreflective material designed for use with an adhesive, the "proper adhesive to be used must be stated on the material * * * or package." As revised, the rule requires that the information on all retroreflective material, or on the accompanying package, include a statement as to what surfaces the material can be attached and instructions on attaching the material to each of those surfaces. These specific instructions are needed since one adhesive (for materials requiring an adhesive) will not necessarily be adequate for all surfaces and, in the absence of instructions, material (regardless of whether it requires an adhesive) could be improperly attached

to a particular surface, thus, having diminished effectiveness.

7. *Sections 164.018–9(f), 164.018–9(e), and 164.018–9(g).* One commenter recommended that § 164.018–9(f) be revised to provide that the reflective intensity of retroreflective material must not be reduced to less than 50% of Table 164.018–9 values during testing in accordance with the "resistance to accelerated weathering" test method. The commenter stated that the intent of Federal Specification L–S–300 is that material should retain at least 50% of the reflectivity specified in the Table after accelerated weathering; whereas, the proposed rule provided that the reflective intensity of material after testing must not be reduced by more than 50% of the values listed in the Table. Section 164.018–9(f) has been revised to adopt the commenter's recommendation and similar revisions have likewise been made in §§ 164.018–9(e) and 164.018–9(g) to reflect the intent of Federal Specification L–S–300.

8. *Sections 164.018–11(a)(2) and 164.018–11(a)(6).* One commenter recommended using porous test panels in lieu of the aluminum test panels required by § 164.018–11(a)(2) when testing Type I materials in order to check for adverse effects of corrosion and weathering on the back side of material (i.e. the side of material to be applied to another surface). This comment has not been adopted. Although corrosion and weathering on the back side of material could affect the performance of the material, the test method in § 164.018–11(a)(6) provides an adequate check for these adverse effects.

9. *Section 164.018–11(b).* One commenter recommended that the requirement to cut test material be removed from the "resistance to water immersion" test method because it would cause flooding of materials not divided into cells and, thus, reduce their reflective performance during the test. This comment has not been adopted. The purpose for making cuts in the material is to simulate damage and check for retroreflective performance in a water environment after damage.

10. *Sections 164.018–11(b)(1) and 164.018–9(h).* One commenter recommended that the "resistance to water immersion" test method be revised to require that the material meet the Table 164.018–9 values for reflective intensity after 16 hours of immersion in fresh water and in salt water. This recommendation has been adopted in §§ 164.018–11(b) and 164.018–9(h). The proposed test would have required 250 hours in immersion in distilled water with no test for salt water and with no test for reflective intensity at the end of that period. The revised test is more representative of the kind of water exposure in which lifesaving equipment is expected to function.

11. *Section 164.018–11(a)(3) and 164.018–11(b)(1).* The "resistance to water immersion" test method in the proposed rules required that test material be checked at the end of the test for blistering, delamination, subsurface corrosion, or other physical deterioration which, if present after extended exposure to water, would diminish the effectiveness of any adhesive used with the material. However, the 16 hour immersion period in the revised "resistance to water immersion" test method is not long enough to check for these conditions. An equivalent test to check for occurrence of these conditions has been added to the adhesion test in § 164.018–11(a)(3).

12. *Section 164.018–11(b)(2).* One commenter recommended that the "abrasion resistance" test method be revised to require use of a brush abrasion tester in place of the abrasive wheel required by the proposed rules. This comment has been adopted in § 164.018–11(b)(2). Use of an abrasive wheel may be appropriate for certain outdoor signs which are exposed to a sandblasting effect from wind driven sand particles. However, that test method is too severe for the flexible films used in personnel safety markings.

13. *Sections 164.018–11(b)(3) and 164.018–9(j).* One commenter recommended that the proposed "solvent resistance" test be replaced with a test that would require cleaning soiled material with mineral spirits and detergent. This recommendation has been adopted in §§ 164.018–11(b)(3) and 164.018–9(j). The "solvent resistance" test is more appropriate for retroreflective material used in outdoor signs and markers, but solvents used in that test can attack the flexible materials and adhesives used in personnel safety markings. The "soil resistance and cleanability" test method adopted in the final rules provides a check on whether soiled retroreflective material can be cleaned with common cleaning liquids without being damaged.

14. *Section 164.018–11(d).* One commenter recommended that specific materials be required for the "adhesion" test method instead of the general categories of materials listed in the proposed rules so as to avoid a wide range of results in testing. This comment has been adopted in § 164.018–11(d). The specific materials are described by reference to particular military or federal specifications and, these materials are required for use in various kinds of Coast Guard approved lifesaving equipment.

In consideration of the foregoing, Title 46 of the Code of Federal Regulations is amended as follows:

SUBCHAPTER C—UNINSPECTED VESSELS

PART 25—REQUIREMENTS

1. By adding a new § 25.25–13 to Part 25 to read as follows:

§ 25.25–13 Personal flotation device lights.

(a) This section applies to vessels described in § 25.25–1 that engage in ocean, coastwise, or Great Lakes voyages.

(b) Each life preserver, each special purpose water safety buoyant device intended to be worn, and each buoyant vest carried on a vessel after June 30, 1980, must have a personal flotation device light that is approved under Subpart 161.012 of this chapter.

(c) Each light required by this section must be securely attached to the front shoulder area of the life preserver or other personal flotation device.

(d) If a personal flotation device light has a non-replaceable power source, the light must be replaced on or before the expiration date of the power source. If the light has a replaceable power source, the power source must be replaced on or before its expiration date and the light must be replaced when it is no longer serviceable.

2. By adding a new § 25.25–15 to Part 25 to read as follows:

§ 25.25–15 Retroreflective material for personal flotation devices.

(a) Each life preserver, each special purpose water safety buoyant device intended to be worn (Type III PFD), and each buoyant vest (type II PFD) carried on a vessel after June 30, 1980, must have Type I retroreflective material that is approved under Subpart 164.018 of this chapter.

(b) Each item required to have retroreflective material must have at least 200 sq. cm (31 sq. in.) of material attached to its front side, at least 200 sq. cm of material on its back side, and, if the item is reversible, at least 200 sq. cm of material on each of its reversible sides. The material is attached on each side of the item must be divided equally between the upper quadrants of the side, and the material in each quadrant must be attached as closely as possible to the shoulder area of the item.

SUBCHAPTER D—TANK VESSELS

PART 33—LIFESAVING EQUIPMENT

3. By adding a new § 33.35–20 to Part 33 to read as follows:

§ 33.35–20 Personal flotation device lights—TB/OCL.

(a) Each life preserver carried on a vessel engaged in ocean, coastwise, or Great Lakes service after June 30, 1980, must have a personal flotation device light that is approved under Subpart 161.012 of this chapter.

(b) Each light required by this section must be securely attached to the front shoulder area of a life preserver.

4. By adding a new § 33.35–25 to Part 33 to read as follows:

§ 33.35–25 Retroreflective material—TB/ALL.

(a) Each life preserver carried on a vessel after June 30, 1980, must have at least 200 sq. cm (31 sq. in.) of retroreflective material attached on its front side, at least 200 sq. cm on its back side, and at least 200 sq. cm of material on each of its reversible sides.

(b) Retroreflective material required by this section must be Type I material that is approved under Subpart 164.018 of this chapter.

(c) The retroreflective material attached on each side of a life preserver must be divided equally between the upper quadrants of the side, and the material in each quadrant must be attached as closely as possible to the shoulder area of the life preserver.

PART 35—OPERATIONS

5. By adding a new § 35.10–30 to Part 35 to read as follows:

§ 35.10–30 Personal flotation device lights—TB/OCL.

(a) Each personal flotation device light that has a non-replaceable power source must be replaced on or before the expiration date of its power source.

(b) Each replaceable power source for a personal flotation device light must be replaced on or before its expiration date and the light must be replaced when it is no longer serviceable.

SUBCHAPTER H—PASSENGER VESSELS

PART 75—LIFESAVING EQUIPMENT

6. By adding a new § 75.40–30 to Part 75 to read as follows:

§ 75.40–30 Personal flotation device lights.

(a) Each life preserver carried on a vessel engaged in ocean, coastwise, or Great Lakes service after June 30, 1980, except ferries, must have a personal flotation device light that is approved under Subpart 161.012 of this chapter.

(b) Each light required by this section must be securely attached to the front shoulder area of a life preserver.

7. By adding a new § 75.40–35 to Part 75 to read as follows:

§ 75.40–35 Retroreflective material.

(a) Each life preserver carried on a vessel after June 30, 1980, must have at least 200 sq. cm (31 sq. in.) of retroreflective material attached on its front side, at least 200 sq. cm on its back side, and at least 200 sq. cm of material on each of its reversible sides.

(b) Retroreflective material required by this section must be Type I material that is approved under Subpart 164.018 of this chapter.

(c) The retroreflective material attached on each side of a life preserver must be divided equally between the upper quadrants of the side, and the material in each quadrant must be attached as closely as possible to the shoulder area of the life preserver.

PART 78—OPERATIONS

8. By adding a new § 78.17–90 to Part 78 to read as follows:

§ 78.17–90 Personal flotation device lights.

(a) Each personal flotation device light that has a non-replaceable power source must be replaced on or before the expiration date of its power source.

(b) Each replaceable power source for a personal flotation device light must be replaced on or before its expiration date and the light must be replaced when it is no longer serviceable.

SUBCHAPTER I—CARGO AND MISCELLANEOUS VESSELS

PART 94—LIFESAVING EQUIPMENT

9. By adding a new § 94.40–20 to Part 94 to read as follows:

§ 94.40–20 Personal flotation device lights.

(a) Each life preserver carried on a vessel engaged in ocean, coastwise, or Great Lakes service after June 30, 1980, must have a personal flotation device light that is approved under Subpart 161.012 of this chapter.

(b) Each light required by this section must be securely attached to the front shoulder area of a life preserver.

10. By adding a new § 94.40–25 to Part 94 to read as follows:

§ 94.40–25 Retroreflective material.

(a) Each life preserver carried on a vessel after June 30, 1980, must have at least 200 sq. cm (31 sq. in.) of retroreflective material attached on its front side, at least 200 sq. cm on its back side, and at least 200 sq. cm of material on each of its reversible sides.

(b) Retroreflective material required by this section must be Type I material that is approved under Subpart 164.018 of this chapter.

(c) The retroreflective material attached on each side of a life preserver must be divided equally between the upper quadrants of the side, and the material in each quadrant must be attached as closely as possible to the shoulder area of the life preserver.

PART 97—OPERATIONS

11. By adding a new § 97.15–70 to Part 97 to read as follows:

§ 97.15–70 Personal flotation device lights.

(a) Each personal flotation device light that has a non-replaceable power source must be replaced on or before the expiration date of the power source.

(b) Each replaceable power source for a personal flotation device light must be replaced on or before its expiration date and the light must be replaced when it is no longer serviceable.

SUBCHAPTER I-A—MOBILE OFFSHORE DRILLING UNITS

PART 108—DESIGN AND EQUIPMENT

12. By adding new paragraphs (e) and (f) to § 108.514 of Part 108 to read as follows:

§ 108.514 Life preservers.

* * * * *

(e) Each life preserver carried on a unit after June 30, 1980, must have a personal flotation device light that is approved under Subpart 161.012 of this chapter. Each light must be securely attached to the front shoulder area of a life preserver.

(f) Each life preserver carried on a unit after June 30, 1980, must have at least 200 sq. cm (31 sq. in.) of retroreflective material attached on its front side, at least 200 sq. cm on its back side, and at least 200 sq. cm of material on each of its reversible sides. The material must be Type I material that is approved under Subpart 164.018 of this chapter. The material attached on each side of a life preserver must be divided equally between the upper quadrants of the side, and the material in each quadrant must be attached as closely as possible to the shoulder area of the life preserver.

PART 109—OPERATIONS

13. By adding a new § 109.225 to Part 109 to read as follows:

§ 109.225 Personal flotation device lights.

(a) Each personal flotation device light that has a non-replaceable power source must be replaced on or before the expiration date of the power source.

(b) Each replaceable power source for a personal flotation device light must be replaced on or before its expiration date and the light must be replaced when it is no longer serviceable.

SUBCHAPTER Q—SPECIFICATIONS

PART 161—ELECTRICAL EQUIPMENT

14. By adding a new Subpart § 161.012 to Part 161 to read as follows:

Subpart 161.012—Personal Flotation Device Lights

Sec.

161.012–1 Scope.
161.012–3 Definitions.
161.012–5 Approval procedures.
161.012–7 Construction.
161.012–9 Performance.
161.012–11 Approval tests.
161.012–13 Production tests and inspections.
161.012–15 Markings.
161.012–17 Instructions.

Authority: 46 U.S.C. 375, 390b, 391a, 416, 481, 526p, 1454, and 1488; 49 U.S.C. 1655(b); 50 U.S.C. 198; and 49 CFR 1.46.

§ 161.012–1 Scope.

(a) This subpart prescribes construction and performance requirements, approval and production tests, and procedures for approving personal flotation device lights fitted on Coast Guard approved life preservers, bouyant vests, and other personal flotation devices.

§ 161.012–3 Definitions.

(a) As used in this subpart, "PFD" means Coast Guard approved personal flotation device.

(b) For the purpose of § 161.012–7, "storage life" means the amount of time after the date of manufacture of the power source of a light that the power source can be stored under typical marine environmental conditions on a vessel and still have sufficient power for the light to meet the requirements of § 160.012–9.

§ 161.012–5 Approval procedures.

(a) An application for approval of a PFD light under this subpart must be sent to the Commandant (G–MMT–3/83), U.S. Coast Guard, Washington, D.C. 20590.

(b) Each application for approval must contain—(1) the name and address of the applicant;

(2) two copies of plans showing the construction details of the light;

(3) a detailed description of the applicant's production testing program; and

(4) a laboratory test report containing the observations and results of approval testing.

(c) The Commandant advises the applicant whether the light is approved. If the light is approved, an approval certificate is sent to the applicant.

§ 161.012–7 Construction.

(a) Each light must be designed to be attached to a PFD without damaging the PFD or interfering with its performance.

(b) Each light and its power source must be designed to be removed and replaced without causing damage to the PFD.

(c) The storage life of the power source of a light must be twice as long as the period between the date of manufacture and the expiration date of the power source.

(d) Each light, prior to activation, must be capable of preventing leakage from its container of any chemicals it contains or produces.

(e) Each component of a light must be designed to remain serviceable in a marine environment for at least as long as the storage life of the light's power source.

(f) No light may have a water pressure switch.

(g) Each light must be designed so that when attached to a PFD, its light beam, at a minimum, is visible in an arc of 180 degrees above or in front of the wearer.

(h) Each light, including its power source, must fit into a cylindrical space that is 150 mm (6 in.) long and 75 mm (3 in.) in diameter.

(i) Each light, including its power source, must not weigh more than 225g (8 oz.).

(j) Each light that is designed to operate while detached from a PFD must have a lanyard that can be used to connect it to the PFD. The lanyard must be at least 750 mm (30 in.) long.

(k) Each light designed to operate while detached from a PFD must be capable of floating in water with its light source at or above the surface of the water.

§ 161.012–9 Performance.

(a) If a light is a flashing light, its flash rate when first activated, or within five minutes thereafter, must be between 50 and 70 flashes per minute.

(b) Each light must—(1) begin to shine within 2 minutes after activation; and

(2) within 5 minutes after activation be capable of being seen from a distance of at least one nautical mile on a dark clear night.

(c) Each light must be designed to operate underwater continuously for at least 8 hours at a water temperature of 15° ± 5°C (59° ± 9°F). However, if the light needs air to operate, underwater operation is required only for 50 or more seconds during each minute of the eight hour period.

(d) Each light must be designed to operate both in sea water and in fresh water.

(e) A light that concentrates its light beam by means of a lens or curved reflector must not be a flashing light.

(f) Each light must be designed to operate in accordance with this section after storage for 24 hours at a temperature of 65° ± 2°C (149° ± 4°F), and after storage for 24 hours at −30° ± 2°C (−22° ± 4°F).

§ 161.012–11 Approval tests.

(a) The approval tests described in this section must be conducted for each light submitted for Coast Guard approval. The tests must be conducted by a laboratory that has the equipment, personnel, and procedures necessary to conduct the approval tests required by this subpart, and that is free of influence and control of the applicant and other manufacturers, suppliers, and vendors of PFD lights.

(b) A sample light must be activated at night under clear atmospheric conditions. However, two lights must be used if the power source is water activated, and one light must be activated in fresh water and the other in salt water having the approximate salinity of sea water. The light, or lights, must begin to shine within 2 minutes after activation and, within 5 minutes after activation, must be seen from a distance of at least one nautical mile against a dark background.

(c) At least ten sample lights must be selected at random from a group of at least 25. Each sample light must be kept at a constant temperature of 65° ± 2°C (149° ± 4°F) for 24 hours. Each sample light must then be kept at a constant temperature of minus 30° ± 2°C (minus 22° ± 4°F) for 24 hours. Five samples must then be submerged in salt water having the approximate salinity of sea water and the five other samples must be submerged in fresh water. The temperature of the water must be 15° ± 5°C (59° ± 9°F). The lights must then be activated and left submerged for eight hours. However, if their power sources

need a supply of air to operate, the lights may be brought to their normal operating positions at the surface of the water for up to 10 seconds per minute during the eight hour period. At least nine of the ten lights must operate continuously over the eight hour period. If the lights are flashing lights, at least nine of ten must have a flash rate of between 50 and 70 flashes per minute when first activated or within five minutes thereafter.

(d) Individual tests must be conducted on a sample light to determine whether the light meets the requirements of § 161.012–7, except that technical data showing compliance with § 160.012–7(c) may be submitted with the application for approval in lieu of performing an individual test.

§ 161.012–13 Production tests and inspections.

(a) The manufacturer of approved lights must randomly select a sample of ten lights from each lot of lights produced. Each lot must not exceed 1,000 lights. At least nine of the ten lights, when tested in accordance with the test described in § 161.012–11(c), must meet the test criteria prescribed by that section. If less than nine lights meet the test criteria, another random sample of ten lights must be taken and tested. If less than nine of these lights meet the test criteria, none of the lights in the lot may be sold as Coast Guard approved equipment.

(b) The Coast Guard does not inspect lights approved under this subpart on a regular schedule. However, the Commandant may select samples and conduct tests and examinations whenever necessary to determine whether the lights are being manufactured in compliance with the requirements in this subpart.

§ 161.012–15 Markings.

(a) Each light manufactured under Coast Guard approval must be permanently and legibly marked with—(1) The manufacturer's name or trade mark that clearly identifies the model designation;

(2) The Coast Guard approval number assigned to light; and

(3) Instructions on how to activate the light.

(b) The power source of each light must be permanently and legibly marked with its date of manufacture and expiration date. Each date must include the month and year.

§ 161.012–17 Instructions.

(a) Each light must have instructions on how to attach it to a PFD in a manner that complies with § 161.012–7(a). However, in the case of lights that are to be attached by a PFD manufacturer, only one set of instructions need be provided for each shipment of lights.

(b) If a light is designed to be attached to a finished PFD, any attachment materials that are not supplied with the light must be clearly identified in the instructions. If a light is to be attached to a finished PFD by a PFD purchaser, any attachment materials not supplied with the light must be generally available for purchase.

(c) Each set of instructions must—(1) clearly identify the kind of PFD construction (for example fabric covered or vinyl dipped) to which the light can be attached; and

(2) not require penetration of the buoyant material of the PFD.

PART 164—MATERIALS

15. By adding a new Subpart 164.018 to Part 164 to read as follows:

Subpart 164.018—Retroreflective Material for Lifesaving Equipment

Sec.

164.018–1 Scope.
164.018–3 Classification.
164.018–5 Specifications and standards incorporated by reference.
164.018–7 Approval procedures.
164.018–9 Design requirements.
164.018–11 Approval tests.
164.018–13 Production inspections.

Authority: 46 U.S.C. 375, 390b, 391a, 416, 481, 526p, 1454 and 1488; 49 U.S.C. 1655(b); 50 U.S.C. 198; and 49 CFR 1.46

§ 164.018–1 Scope.

This subpart prescribes design requirements, approval tests, and procedures for approving retroreflective material used on lifesaving equipment.

§ 164.018–3 Classification.

The following types of retroreflective material are approved under this specification:

(a) Type I—Material used on flexible surfaces and rigid surfaces, except rigid surfaces that are continuously exposed.

(b) Type II—Weather resistant material used on continuously exposed rigid surfaces.

§ 164.018–5 Specifications and standards incorporated by reference.

(a) The following federal and military specifications and standards are incorporated by reference into this subpart:

(1) Federal Specification L–P–375 C (April 23, 1970), entitled "Plastic Film, Flexible, Vinyl Chloride", as amended by Amendment 2 of December 2, 1976.

(2) Federal Specification L–S–300 B (July 12, 1974), entitled "Sheeting and Tape, Reflective: Nonexposed Lens, Adhesive Backing."

(3) Federal Specification CCC–C–426 D (August 12, 1970), entitled "Cloth, Drill, Cotton."

(4) Federal Specification CCC–C–443 E (December 2, 1974), entitled "Cloth, Duck, Cotton (Single and Plied Filling Yarns, Flat)."

(5) Federal Test Method Standard 141a (September 1, 1965), entitled "Paint, Varnish, Lacquer and Related Materials; Methods of Inspection, Sampling and Testing." (Method 6141 "Washability of Paints", and Method 6142 "Scrub Resistance" as amended May 1, 1974).

(6) Federal Test Method Standard 370 (March 1, 1977), entitled "Instrumental Photometric Measurements of Retroreflective Materials and Retroreflective Devices."

(7) Military Specification MIL–C–17415 E (April 16, 1964), entitled "Cloth, Coated, and Webbing, Inflatable Boat and Miscellaneous Use", as amended by Amendment 5 of April 26, 1976.

(8) Military Specification MIL–R–21607 D (August 5, 1976), entitled "Resins, Polyester, Low Pressure Laminating, Fire-retardant."

(9) Military Specification MIL–C–43006 E (March 24, 1978), entitled "Cloth and Strip Laminated, Vinyl Nylon High Strength, Flexible."

(b) Federal and military specifications and standards may be obtained from Customer Service, Naval Publications, Forms Center, 5801 Tabor Ave., Philadelphia, Pa. 19120. These materials are also on file in the **Federal Register** library.

(c) Approval to incorporate by reference the materials listed in this section was obtained from the Director of the **Federal Register** on *June 14, 1979.*

(d) When changes are made to a specification or standard incorporated by reference into this subpart, the effective date for its use will be the effective date set by the issuing authority unless otherwise determined by the Coast Guard.

§ 164.018–7 Approval procedures.

(a) An application for approval of retroreflective material must be sent to the Commandant (G–MMT–3/83), U.S. Coast Guard, Washington, D.C. 20590.

(b) Each application for approval must contain—(1) the name and address of the applicant;

(2) two copies of plans or specifications of the material;

(3) a detailed description of the quality control procedures used in manufacturing the material; and

(4) a test report containing observations and results of approval testing conducted.

(c) The Commandant advises the applicant whether the retroreflective material is approved. If the material is approved, an approval certificate is sent to the applicant.

§ 164.018–9 Design requirements.

(a) Type I retroreflective material must be capable of being attached to lifesaving equipment either by sewing it to the equipment or by means of an adhesive. Type II material must be capable of being attached to lifesaving equipment either by mechanical fasteners or by an adhesive.

(b) The following information must be stated on retroreflective material or on the package in which it is supplied to a user:

(1) each surface to which the retroreflective material is designed to be attached.

(2) the instructions for attaching the material to each surface described in paragraph (b)(1) of this section.

(c) When retroreflective material designed for use with an adhesive is tested in accordance with the "adhesion" test method listed in § 164.018–11, the material must not peel for a distance of more than 5 cm (2 in.).

(d) When dry material is tested in accordance with the "reflective intensity" test method listed in § 164.018–11, the reflective intensity of the material must be equal to or greater than the values for reflective intensity listed in Table 164.018–9.

(e) When wet material is tested in accordance with the "reflective intensity during rainfall" test method listed in § 164.018–11, the reflective intensity of the material must be at least 90 percent of the values listed in Table 164.018–9.

(f) The reflective intensity of material after testing in accordance with the "resistance to accelerated weathering" test method listed in § 164.018–11 must be at least 50 percent of the values listed in Table 164.018–9.

(g) After testing in accordance with the "fungus resistance" test method listed in § 164.018–11, retroreflective material must not support fungus growth, and the reflective intensity of the material must be equal to or greater than the values for reflective intensity listed in Table 164.018–9.

(h) The reflective intensity of materials after testing in accordance with the "resistance to water immersion" test method described in § 164.018–11, must be equal to or greater than the values listed in Table 164.018–9, except that retroreflectivity is not required in the area extending outward 5 mm (0.2 inches) from each side of the cuts made in the material.

(i) The reflective intensity of material after testing in accordance with the "abrasion resistance" test method described in § 164.018–11(b)(2), must be at least 50 percent of the values listed in Table 164.018–9.

(j) After retroreflective material is tested in accordance with the "soil resistance and cleanability" test method described in § 164.018–11(b)(3) the material must not have any visible damage or permanent soiling.

(k) Except as provided in paragraphs (c) through (j) of this section, retroreflective material when tested in accordance with the test methods listed in § 164.018–11 must meet the requirements prescribed for those test methods in Federal Specification L–S–300.

Table 164.018–9—Reflective intensity

Divergence angle[1] (Observation angle)[2]	Incidence angle[1] (Entrance angle)[2]	Reflective intensity[1] (Specific intensity per unit area)[2]
0.2°	−4°	150
.2°	+30°	75
.2°	+45°	50
.5°	−4°	57
.5°	+30°	33
.5°	+45°	25
2.0°	−4°	2.5
2.0°	+30°	2.0
2.0°	+45°	1.0

[1] These terms are described in Federal Specification L–S–300.

[2] These terms are described in Federal Test Method Standard 370.

§ 164.018–11 Approval tests.

(a) Retroflective material submitted for Coast Guard approval must be tested in accordance with the following test methods described in Federal Specification L–S–300:

(1) Test conditions.

(2) Test panels.

(3) Adhesion test method using a 0.79 kg (1.75 lb.) test weight, except that one test panel must be immersed in distilled water in a covered container for 16 hours before the weight is applied and the other test panel must be immersed in salt water (4% NaCl by weight) in a covered container for 16 hours before the weight is applied. (This test method is required only for retroreflective material that is designed for use with an adhesive. If a particular test panel used in testing results in a test failure, the retroreflective material will not be approved for attachment to material of the type used as the test panel. The retroreflective material may nevertheless be approved for use with other types of material depending on the results of testing with the other panels. See paragraph (d) of this section for a listing of tests panels used.)

(4) Flexibility at standard conditions test method, except that when testing Type I material—

(i) the material must be unmounted;

(ii) a 1.5 mm (1/16-inch) mandrel must be used in place of the mandrel described in the test method; and

(iii) after testing at standard conditions, the material must be placed in a chamber at a temperature of −18°C (0°F) for at least 1 hour and then retested in the chamber at that temperature.

(5) Reflective intensity.

(6) Resistance to accelerated weathering test method and subtest methods "reflective intensity after accelerated weathering," "reflective intensity during rainfall," and "adhesion after accelerated weathering." (The "adhesion after accelerated weathering" test method is required only for materials designed for use with an adhesive. The "resistance to accelerated weathering" test method must be performed for 250 hours, if testing Type I material, and for 1000 hours if testing Type II material.)

(7) Resistance to heat, cold, and humidity.

(8) Fungus resistance.

(b) Retroreflective material submitted for approval must also be tested as follows:

(1) *Resistance to water immersion.* Two test panels are used. The test panels and test conditions must meet paragraphs (a)(1) and (a)(2) of this section. The retroreflective material on each test panel is cut with a sharp knife from each corner to the corner diagonally opposite so that an "X" is formed. The cuts must be made completely through the material to the metal panel. One panel is immersed in distilled water in a covered container. The other panel is immersed in salt water (4% NaCl by weight) in a covered container. After 16 hours in water, the panels are removed from the containers, rinsed of deposits, and dried. Reflective intensity values at the angles listed in Table 164.018–9 must be measured within 2 hours after removal of the panels from the water. When measuring the reflective intensity values, the area within 5 mm (0.2 in.) of either side of the "X" cuts, and within 5 mm of the cut edges of the material, must not be counted.

(2) *Abrasion resistance.* One test panel is used. The panel and test conditions must meet paragraphs (a)(1)

and (a)(2) of this section. The test apparatus must meet Federal Test Method Standard 141, Method 6142, except that the brush must be dry. One thousand brush strokes are applied to the material. The test panel is then wiped with a clean soft cloth. Thereafter, the reflective intensity of the area of the material in contact with the brush is measured at the angles listed in Table 164.018–9.

(3) *Soil resistance and cleanability.* One panel is used. The test panel and test conditions must meet paragraphs (a)(1) and (a)(2) of this section. A soiling medium is applied to the material as described in Federal Test Method Standard 141, Method 6141. The soiled area is then covered with a laboratory watch glass or similar device. After 24 hours, the material is uncovered and the soil medium wiped off with a clean, dry, soft cloth. The material is then wetted with mineral spirits and wiped with a cloth soaked in mineral spirits. Thereafter, it is washed with a 1 percent (by weight) solution of detergent in warm water and rinsed and dried with a clean, dry, soft cloth.

(c) Each measurement of reflective intensity required in paragraphs (a), (b)(1), and (b)(2) of this section must be made using either—

(1) the L–S–300 procedure for measuring reflective intensity; or

(2) the procedure for measuring specific intensity per unit area in Federal Test Method Standard 370, except that the test apparatus arrangement required in L–S–300 must be used.

(d) If material is designed for use with an adhesive, the "adhesion" test method required by paragraph (a)(3) of this section must be repeated using a 0.79 kg. (1.75 lb.) test weight and using each of the following materials as test panels in place of the aluminum test panels required by this test method:

(1) Smooth panel of cured polyester laminating resin meeting MIL–R–21607 (Types I and II material).

(2) Cotton drill (Type I material only) meeting CCC–C–426, or cotton duck meeting CCC–C–443 (Type I material only).

(3) Vinyl-nylon laminated cloth meeting MIL–C–43006 (Type I material only).

(4) Vinyl film meeting L–P–375 (Type I material only).

(5) Rubber coated cloth meeting MIL–C–17415 (Type I material only).

(e) Each flexible material listed in paragraph (d) of this section when used as a test panel must be bonded to a rigid backing.

(f) Test panel material listed in paragraph (d) must—

(1) be taken from an item of Coast Guard approved lifesaving equipment; or

(2) be certified by the manufacturer of the material that it meets the applicable specification in paragraph (d) of this section.

§ 164.018–13 Production inspections.

The Coast Guard does not inspect retroreflective material approved under this subpart on a regular schedule. However, the Commandant may select samples and conduct tests and examinations whenever necessary to determine whether retroreflective material is being manufactered in compliance with the requirements of this subpart.

SUBCHAPTER R—NAUTICAL SCHOOLS

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

16. By adding new paragraphs (c) and (d) to § 167.35–5 of Part 167 to read as follows:

§ 167.35–5 Life preservers.

* * * * *

(c) *Personal flotation device lights.* Each life preserver carried on a vessel engaged in ocean, coastwise, or Great Lakes service after June 30, 1980, must have a personal flotation device light that is approved under Subpart 161.012 of this chapter. Each light must be securely attached to the front shoulder area of a life preserver.

(d) *Retroreflective material.* Each life preserver carried on a vessel after June 30, 1980, must have at least 200 sq. cm (31 sq. in.) of retroreflective material attached on its front side, at least 200 sq. cm on its back side, and at least 200 sq. cm of material on each of its reversible sides. The material must be Type I material that is approved under Subpart 164.018 of this chapter. The material attached on each side of a life preserver must be divided equally between the upper quadrants of the side, and the material in each quadrant must be attached as closely as possible to the shoulder area of the life preserver.

17. By adding new paragraphs (c)(4) and (c)(5) to § 167.65–1 of Part 167 to read as follows:

§ 167.65–1 Station bills, drills, and log entries.

* * * * *

(c) * * *

(4) The master shall ensure that each personal flotation device light that has a non-replaceable power source is replaced on or before the expiration date of the power source.

(5) The master shall ensure that—

(i) each replaceable power source for a personal flotation device light is replaced on or before its expiration date; and

(ii) the light is replaced when it is no longer serviceable.

* * * * *

SUBCHAPTER T—SMALL PASSENGER VESSELS (UNDER 100 GROSS TONS)

PART 180—LIFESAVING EQUIPMENT

18. By adding a new § 180.25–20 to Part 180 to read as follows:

§ 180.25–20 Personal flotation device lights.

(a) Each life preserver carried on a vessel engaged in ocean, coastwise, or Great Lakes service after June 30, 1980, must have a personal flotation device light that is approved under Subpart 161.012 of this chapter.

(b) Each light required by this section must be securely attached to the front shoulder area of a life preserver.

(c) Vessels with Certificates of Inspection endorsed only for routes that do not extend more than 20 miles from a harbor of safe refuge are not required to comply with this section.

19. By adding a new § 180.25–25 to Part 180 to read as follows:

§ 180.25–25 Retroreflective material.

(a) Each life preserver carried on a vessel after June 30, 1980, must have at least 200 sq. cm (31 sq. in.) of retroreflective material attached on its front side, at least 200 sq. cm on its back side, and at least 200 sq. cm of material on each of its reversible sides.

(b) Retroreflective material required by this section must be Type I material that is approved under Subpart 164.018 of this chapter.

(c) The retroreflective material attached on each side of a life preserver must be divided equally between the upper quadrants of the side, and the material in each quadrant must be attached as closely as possible to the shoulder area of the life preserver.

PART 185—OPERATIONS

20. By adding a new § 185.25–25 to Part 185 to read as follows:

§ 185.25–25 Personal flotation device lights.

(a) The licensed operator shall ensure that each personal flotation device light that has a non-replaceable power source is replaced on or before the expiration date of the power source.

(b) The licensed operator shall also ensure that—

(1) each replaceable power source for a personal flotation device light is replaced on or before its expiration date; and

(2) the light is replaced when it is no longer serviceable.

SUBCHAPTER U—OCEANOGRAPHIC VESSELS

PART 192—LIFESAVING EQUIPMENT

21. By adding a new § 192.40–20 to Part 192 to read as follows:

§ 192.40–20 Personal flotation device lights.

(a) Each life preserver carried on a vessel engaged in ocean, coastwise, or Great Lakes service after June 30, 1980, must have a personal flotation device light that is approved under Subpart 161.012 of this chapter.

(b) Each light required by this section must be securely attached to the front shoulder area of a life preserver.

22. By adding a new § 192.40–25 to Part 192 to read as follows:

§ 192.40–25 Retroreflective material.

(a) Each life preserver carried on a vessel after June 30, 1980, must have at least 200 sq. cm (31 sq. in.) of retroreflective material attached on its front side, at least 200 sq. cm on its back side, and at least 200 sq. cm of material on each of its reversible sides.

(b) Retroreflective material required by this section must be Type I material that is approved under Subpart 164.018 of this chapter.

(c) The retroreflective material attached on each side of a life preserver must be divided equally between the upper quadrants of the side, and the material in each quadrant must be attached as closely as possible to the shoulder area of the life preserver.

PART 196—OPERATIONS

23. By adding a new § 196.15–70 to Part 196 to read as follows:

§ 196.15–70 Personal flotation device lights.

(a) Each personal flotation device light that has a non-replaceable power source must be replaced on or before the expiration date of the power source.

(b) Each replaceable power source for a personal flotation device light must be replaced on or before its expiration date and the light must be replaced when it is no longer serviceable.

(46 U.S.C. 375, 390b, 391a, 416, 481, 526p, 1454, and 1488; 49 U.S.C. 1655(b); 50 U.S.C. 198; and 49 CFR 1.46.)

Dated: June 20, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79–20113 Filed 6–29–79; 8:45 am]

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July 2, 1979

Part V

Securities and Exchange Commission

Proposed Guidelines for Disclosure by Electric and Gas Utility Companies

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 231, 241, and 251]

[Release Nos. 33-6085, 34-15945, and 35-21116; File No. S7-696]

Proposed Guidelines for Disclosure by Electric and Gas Utility Companies

AGENCY: Securities and Exchange Commission.

ACTION: Request for public comment on proposed staff guidelines for disclosure by electric and gas utility companies.

SUMMARY: The Securities and Exchange Commission today authorized the publication for public comment of proposed staff guidelines for disclosure in registration statements and reports filed by electric and gas utility companies under the federal securities laws and the rescission of a related existing guideline. The Commission anticipates that these guidelines should improve the usefulness to investors of the various documents prepared under the securities laws by specifying the types of data which such documents should disclose. It is also believed that the guidelines will benefit registrants by increasing the uniformity of disclosure within the industry and eliminating the disclosure requirements which are not meaningful to that industry. Interested persons are invited to participate in the further development of these guidelines by submitting written comments and suggestions. Users and preparers of information relating to electric and gas utility companies are particularly requested to assist in the development of these guidelines by commenting specifically on their usefulness, as well as by suggesting other disclosure which may serve the intended purposes of the guidelines.

DATES: Comments must be received on or before September 24, 1979.

ADDRESSES: All communications on this matter should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Comments should refer to file number S7-696 and will be available for public inspection.

FOR FURTHER INFORMATION CONTACT: William H. Carter, 202-376-8090, Eugene V. Pillot, 202-376-2989, or Richard J. Reinhard, 202-376-2382, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today authorized the publication for public comment of proposed Guides 63 and 6, "Guidelines for Disclosure by Electric and Gas Utility Companies," of the Guides for the Preparation and Filing of Registration Statements under the Securities Act of 1933 [17 CFR 231.4936, as amended] and the Guides for the Preparation and Filing of Reports and Registration Statements under the Securities Exchange Act of 1934 [17 CFR 241.5520, as amended], respectively. The guidelines would not constitute Commission rules nor would they bear the Commission's official approval; they would represent practices followed by the Division of Corporation Finance in administering the disclosure requirements of the federal securities laws.

Although the Guides describe certain information that should be disclosed, they do not purport to be all inclusive and in no way limit the type of information required. Appropriate disclosure must always depend on the individual facts and circumstances concerning each registrant. For example, situations such as the recent nuclear accident at the Three Mile Island Generating Station may require both special disclosure because of the unique circumstances and a number of disclosures under guideline items, including possible discussion of a major lack of availability of facilities under the "Existing Properties" item.

General Background

The concept of industry guidelines is not unprecedented, given the existence of disclosure guidelines previously developed for bank holding companies,[1] real estate limited partnerships,[2] insurance premium funding programs,[3] and oil and gas drilling programs.[4] However, the proposed guidelines differ in one respect from those previously advanced. Unlike previous guidelines which generally have expanded upon the description of business and properties requirements of Items 1 and 2 of Regulation S-K (17 CFR 229.20), the proposed guidelines would call for information which would normally result in satisfaction of those requirements.

The immediate impetus to establish electric and gas utility guidelines came as a result of a recommendation of the Advisory Committee on Corporate Disclosure [5] that the Commission develop disclosure guidelines for specific industries with the requirements for each reflecting the particular characteristics of the industry under consideration. As was noted in the preliminary release "Development of Guidelines for Electric and Gas Utility Companies—Advance Notice of Proposed Rulemaking," [6] the electric and gas utility was chosen because of the substantial capital needs of the industry and the attendant frequency with which utilities use the public equity and debt markets as sources of funds.

The proposed guidelines reflect practices presently followed by the Commission's Division of Corporation Finance in administering the disclosure requirements of the federal securities laws and a number of suggestions derived from the comments on Release 33-5827 and other sources intended to improve the quality of the disclosure contained in various disclosure documents filed by electric or gas utility companies.

Release 33-5827 elicited public comments from forty-seven interested parties. Although that release addressed itself solely to general areas of possible consideration, the responses were sufficiently specific that they were helpful also in the development of the proposed guidelines.

In addition to utilization of these comments, the Division reviewed numerous existing filings made under the Securities Act of 1933 and the Securities Exchange Act of 1934, reviewed literature on the industry, and consulted with the Division of Corporate Regulation. Interviews were also conducted with representatives of the Federal Energy Regulatory Commission, the Edison Electric Institute, the American Gas Association, the Financial Analysts Federation, and the National Association of Regulatory Utility Commissioners. These interviews provided an added perspective into the operations of gas and electric utility companies.

Proposed Rescission of Guide 30 of the Secruities Act Guides

The adoption of the proposed guidelines set forth below would appear to render the existing Guide 30 superfluous. Therefore Guide 30 would

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[1] Securities Act Release No. 5735 (August 31, 1976) (41 FR 39007).

[2] Securities Act Release No. 5692 (March 30, 1976) (41 FR 17374).

[3] Securities Act Release No. 5209 (November 8, 1971) (36 FR 22013).

[4] Securities Act Release No. 5036 (January 10, 1976) (35 FR 1233).

[5] Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission, Committee Print 95-29, House Committee on Interstate and Foreign Commerce, 95th Cong., 1st sess., November 3, 1977, at 329.

[6] Securities Act Release No. 5827, (May 19, 1977) (42 FR 27260) ("Release 33-5827").

be rescinded concurrently with the final adoption of these guidelines.

Proposed Guidelines—General

In addition to improving the quality of disclosure to investors, the proposed guidelines are intended to provide registrants with a convenient reference to the disclosures sought by the staff of the Division of Corporation Finance in registration statements and other disclosure documents filed with the Commission, and to minimize delays in the review process. Basically, the proposed guidelines would formalize existing disclosure practice with respect to form and substance as reflected in documents currently on file with the Commission. There are, however, two areas where there would be some additions to current practice. The first relates to forward looking information. The second relates to somewhat broader disclosure of the public utility regulatory environment.

The inclusion in Commission filings of forward looking information in such areas as construction programs, financing, and fuel supply is, in varying degrees, an existing common practice of registrants which is merely formalized by these guidelines. Unlike companies in many other industries, utilities, by virtue of the regulatory environment in which they operate, are constantly required to prepare extensive amounts of forward looking information for inclusion in reports to other governmental agencies and in connection with rate requests. Accordingly, utilities have considerable experience in developing this information and it is readily available for inclusion in Commission filings with a minimum of additional expense and burden. Since this information generally is readily available in public reports filed with agencies such as the Federal Energy Regulatory Commission or state public utility administrations, many of the reasons for not requiring disclosure of such forward looking information but merely permitting its disclosure on a voluntary basis, as was done with revenues, net income, and earnings per share in the Commission's recent release on projections, are not present.[7] In an early release on projections [8] the Commission indicated its concern " . . . that all investors do not have equal access to this material information." Availability of this forward looking information at other agencies but lack of its ready availability to many investors may involve similar concerns. Moreover, the forward looking information requested by these guidelines is not the type of projections, i.e., revenues, net income and earnings per share, addressed in Release 33–5992.[9]

While these proposed guidelines expressly request certain forward looking information, they give registrants the option of whether or not to include a description of the major assumptions underlying the projected data.[10] Notwithstanding that the inclusion of assumptions is voluntary, it should be noted that a discussion of assumptions in a specific situation might provide a better understanding of the forward looking information and could obviate the need for the section dealing with problems or special factors affecting the industry. Management in formulating its forward looking figures and the underlying assumptions could presumably address any problems or special factors affecting the industry which also materially affect the company. In any event, it is hoped that so-called "boilerplate" disclosures merely listing factors common to the industry as a whole which may not have a material impact on the particular registrant will be avoided.

In commenting upon the forward looking data disclosures proposed in this release, commentators should take into account the safe harbor rule for such disclosures which has been adopted by the Commission and which would be applicable to such disclosures (See Securities Act Release No. 6084).

The second area where there may be some additional disclosure requirements if the proposed guidelines are adopted relates to regulation by public utility commissions.[11] Again, however, this area of the guidelines is in large measure drawn from existing practices of some registrants. There was virtually unanimity on the part of the person inteviewed by the staff as to the importance of the regulatory environment. However, many interviewees stated that any format for presentation imposed by rule or guide would be inappropriate because of the highly diverse and constantly changing nature of regulatory practice. In response to this concern, the proposed guidelines do not reflect a rigid format but instead provide that the regulatory environment discussion should focus on the individual utility's experience in a given jurisdiction. The most recent material proceeding should provide a specific frame of reference. Any material change from prior regulatory practice with respect to matters such as accounting practices and items allowed in the rate base should be discussed.

The Text of the Proposed Guides 63 and 6 Is Set Forth Below:

General Instructions

(1) These guidelines apply only to electric and/or gas utilities and generally only to the description of business and properties required by Items 1 and 2 of Regulations S-K (17 CFR 229.20). Generally, registrants complying with these guidelines will be deemed by the staff to have satisfied the requirements of Items 1 and 2 except in situations where these guidelines expressly refer to the requirements of those Items.

(2) The determination of materiality of the information called for by these guidelines should take into account both quantitative and qualitative factors such as the significance of the matter to the registrant, the pervasiveness of the matter and the impact of the matter on the registrant's operations and financial position.

(3) Certain of the items (or paragraphs) of the guidelines may not be applicable by virtue of the nature of the operations of a particular registrant. In such instances, unless the disclosure is clearly inapplicable, a supplement letter not a part of the filing should be provided, along with the proxy statement, report, or registration statement, which (a) identifies those areas for which information has been

[7] Securities Act Release No. 5992 (November 7, 1978) (43 FR 53246) ("Release 33–5992").

[8] Securities Act Release No. 5362 (February 2, 1973) (38 FR 7220). See also Release 33–5992.

[9] The Commission noted in the release that guidelines for the disclosure of other items of "soft information" are being considered generally as well as in connection with certain specific programs.

[10] Securities Act Release 33–5992 states: While the Division believes that disclosure of assumptions would help investors to comprehend projections and assist in establishing a reasonable basis for projections disclosure, there may be instances where reasonably based and adequately presented projections would significantly add to the mix of information available to investors in the absence of disclosure of underlying assumptions. However, the Division believes under certain circumstances the disclosure of underlying assumptions may be material to an understanding of the projected results. See *Beecher* v. *Able*, 374 F. Supp. 341 (S.D.N.Y., 1974) wherein it was held that ". . . any assumptions underlying the projection must be disclosed if their validity is sufficiently in doubt that a reasonably prudent investor, if he knew of the underlying assumptions, might be deterred from crediting the forecast. Disclosure of such underlying assumptions is necessary to make . . . [the forecast] . . . not misleading." 374 F. Supp. at 348. However, it should be noted that the *Beecher* court went on to indicate that "[A]ll projections will be based on numerous assumptions, some of which are so reasonable and so likely to be borne out by the facts that they may be left unstated." Id. at n. 6.

[11] While the proposed guidelines in certain respects may expand the disclosures provided about public utility commissions, the guidelines also recognize that to avoid needless detail, and to provide registrants added certainty, utilities operating in multiple jurisdictions should limit their discussion to those jurisdictions where they have material operations.

omitted and (b) states registrant's basis for the omission.

(4) A brief general description of the registrant's business and properties should be presented in narrative form in accordance with paragraphs I.A. and IV below. In most other cases information furnished in accordance with these guidelines should be presented in tabular form. However, there may be instances where a narrative discussion in connection with a table may provide a useful explanation.

(5) The term "reportable period," as used in the guidelines, refers to the following periods unless otherwise specified:

(a) Historical Period:

(i) Each of the last five complete fiscal years of the registrant;

(ii) Any subsequent interim (or optional twelve month) period for which an income statement is furnished; and

(iii) Any additional period necessary to keep the information presented from being misleading.

(b) Prospective Period: Each of the succeeding five years including the current year (three years for gas utilities)[12] from the latest fiscal year end.

(6) Forward looking information presented must have a reasonable basis (provided, however, that the burden shall be on an objecting party to show that no reasonable basis existed as of the time of presentation; see Securities Act Release 6084). Where information is called for that is forward looking in nature, appropriate qualifications and, to the extent that a registrant elects, major factual or subjective assumptions should be set forth (see Securities Act Release No. 5992, "Guides for Disclosure of Projections of Future Economic Performance" [November 7, 1978] [43 FR 53246]).

(7) In certain situations where a holding company is involved it may be necessary to disclose information about the entire holding company system in addition to that about the subsidiary-registrant in order to prevent potentially misleading disclosure. An example might be disclosure, in table V(A), of capability or peak load figures for the entire holding company system where the various subsidiaries supplement each other when needed, even though the actual registrant is a single subsidiary.

[12] Certain gas utilities may not be required by any of the regulatory Commissions to which they are subject to make three year projections. Accordingly, for such companies comments are specifically requested as to what "Prospective Period" their projections should cover.

I. Description of Business

A. Briefly describe the business done and intended to be done by the registrant and its subsidiaries.

B. Registrants which have more than one reportable industry segment or which do business in more than one geographic area should follow the requirements of Items 1(b) and 1(d), respectively, of Regulation S-K.

II. Capital Requirements

A. For the reportable period specified in General Instruction 5(b) furnish the estimated future capital requirements and capital sources compared with the latest fiscal year and the aggregate amounts for the last five fiscal years (through the latest complete fiscal year). Estimated amounts of capital requirements should be segregated as to construction, nuclear fuel, other fuel supply arrangements, exploration and development, debt maturities, sinking funds and additional working capital (if such items are material) and as to any other material requirements. Estimated sources of capital should be segregated as to external funds (new money and refinancings of maturing debt) and internal funds. (See Table I of Appendix and the instructions thereto for a suggested tabular format.) A narrative discussion should be provided of any material projects contemplated but not presently quantifiable without unreasonable effort or expense.

B. Discuss the anticipated mix (i.e., specific types of securities) of any currently planned external financings for at least a period of one year from the last fiscal year end.

C. Discuss the capital structure objectives for the reportable period and the conditions precedent to pursuit of such objectives.

D. Describe any significant leasing arrangements or other "off-balance sheet" financing methods now in effect and/or planned for the prospective reportable period.

E. Discuss any indenture covenants, loan provisions, or other material restrictions which may limit a registrant's ability to issue debt or equity securities, or otherwise borrow or raise capital, or restrict the registrant from entering into any arrangements of a type specified in Item II.D. above.

III. Construction Program

A. For the reportable period specified in General Instruction 5(b) present a summary of the estimated future construction program expenditures compared with the latest fiscal year and the aggregate amounts for the last five fiscal years (through the latest complete fiscal year). This summary should indicate whether the allowance for funds used during construction (AFUDC), on a gross basis, is included therein and, if so, the related amounts thereof should be disclosed. Material expenditures for pollution control facilities or additions thereto should also be set forth. (See Table II)

B. Provide a summary of major facilities planned or under construction.

1. For material electric generating facilities this description should include the following categories: fuel type, year of planned operation; net company capability; costs to date; future estimated expenditures; and the estimated cost per kW. (See Table III)

2. For any other material projects, e.g., SNG, LNG, off-shore pipeline construction, pertinent information necessary for an evaluation of the effect of this project on the company's operations should be provided which includes: scope and purpose of the project, location, capacities, year of planned operation, costs to date and future estimated expenditures.

C. If to the knowledge of management any of the following may occur, discuss the effect, to the extent material, on the planned construction program:

(1) Deferral or cancellation of projects;

(2) Fuel conversion programs; or

(3) Actions by the Nuclear Regulatory Commission or by the Environmental Protection Agency or other federal or state environmental agencies.

D. Electric utilities should furnish for the reportable period prescribed in General Instruction 5(b) the estimated electric capability, peak load and reserve margin forecasts underlying the planned construction program, compared with that of the latest fiscal year. (See Table IV)

IV. Existing Properties

Except to the extent that properties are described in Item VII, below, properties should be described in accordance with the requirements of Item 2(a) and the related instructions of Regulation S-K. There also should be a discussion of the following, to the extent material to the operations of the company:

(A) Any major underutilization, lack of availability, and/or decommissioning of facilities (with regard to decommissioning of nuclear facilities see Staff Accounting Bulletin No. 19);

(B) Material terms concerning jointly owned and/or operated facilities; or

(C) Material terms relating to participation in power pool and interconnection arrangements.

V. Operating Statistics

A. Furnish for the reportable period specified in General Instruction 5(a) a statistical summary which includes the following categories [see Tables V (A), (B), and (C)]:

(1) Operating revenues and volume sales by customer classification. Firm and interruptible customer revenues and volumes should be indicated where applicable. Volume sales for pipeline operations (and for gas and electric resale operations, if material) should include a breakdown by material individual customer. Where applicable for gas resales, there should be set forth a further categorization of sales in interstate pipelines and intrastate pipelines and gas utilities, e.g., distribution companies. If material, the effects of accrual of unbilled revenues should be quantified for each year.

(2) Sources of total electric and gas volumes sold. Generated electrical energy should be categorized by type of fuel used. Gas supply should be categorized by types of gas and whether purchased or produced. The general geographic areas should be indicated for both purchased and produced gas. Material suppliers of purchased gas should be identified.

(3) Cost of fuel in cents per cubic feet or kWh. For electric operations, indicate costs for each fuel and an average cost for all fuels. For gas operations and gas utilities, e.g., pipeline and distribution companies, provide costs for each type of gas called for by paragraph V.A.(2) above, except that average costs should be provided only for total purchases, production and fuel consumed. Cost data by material supplier and geographic area is not required. If material, the effects of deferral of fuel costs should be quantified for each year of the reportable period.

(4) Information with respect to system capability and usage.

a. Electric operations:

(i) Net capability at the end of each period;

(ii) Net capability at time of peak;

(iii) Peak load;

(iv) Reserve margin percentage; and

(v) Annual load factor percentage.

b. Gas operations and Distribution and Pipeline companies:

(i) Sendout capability at end of period;

(ii) Peak daily sendout; and

(iii) Average daily sendout.

(5) Customer statistics.

a. Electric and gas operations and gas distribution companies:

(i) Estimated population of service area;

(ii) Monthly average number of customers by customer classification in paragraph V.A.(1), above;

(iii) Average annual volume usage and revenue per residential customer;

(iv) Average revenue per MCF or kWh by customer classification of paragraph V.A.(1) above and the average for all customers;

(v) Breakdown of industrial revenue by major industries served; and

(vi) Sales revenue by state.

b. Pipeline operations:

(i) Total average revenue per MCF, interstate and intrastate; and

(ii) Total MCF's transported for others, average charge per MCF, and average daily delivery relating to gas supplies delivered for others.

(6) Weather statistics for gas and electric operations, if space heating or air conditioning is material to the overall operations. Indicate the degree days in the area(s) served and the percentage of normal based upon an appropriate average.

VI. Ratios

A. For the reportable period specified in General Instruction 5(a) present the following ratios:

1. Return on common equity (net income available to common divided by the average common equity);

2. AFUDC as a percentage of common earnings (AFUDC divided by net income available to common);

3. Ratio of earnings to fixed charges (as defined in Form S–1) and the ratio of earnings to fixed charges and preferred dividend requirements (as defined in Form S–1); and

4. Common stock dividend payout ratio (dividends declared per common share divided by net income per share).

B. Present net tangible book value per common share as of the latest balance sheet date (common shareholders' equity less intangible assets divided by the number of common shares outstanding).

VII. Fuel Supply

A. Extractive enterprises contributing to registrant's fuel supply in which the registrant owns an interest in the reserves or production should be described. The requirements of Item 2(b) of Regulation S–K should be followed if oil and gas operations are material to the registrant's and its subsidiaries' business operations or financial position.

B. For the reportable period specified in General Instruction 5(a) present for each material fuel source of electric utilities the average cost of such fuel per appropriate unit of measurement and per BTU content. Where production by the registrant is material, separate disclosure of purchased and produced average costs should be set forth. (See Table VI)

C. For the latest complete fiscal year and for each of the next five fiscal years indicate by type of fuel the historical and estimated future fuel mix percentage used and to be used by electric utilities for generation. If major changes are contemplated beyond this time frame, a general discussion should be presented of management's intentions in this regard.

D. Material fuel supply contracts for the major fuels utilized in the registrant's (both gas and electric utilities) operations should be described. Minor supply contracts should be aggregated when they, as a group, represent a variable which is necessary for an understanding of the registrant's fuel supply status. The principal factors which should be addressed are as follows:

(1) Gas—provide details that are of a material nature which relate to suppliers, delivery commencement dates, contracted supply (on a daily, annual and seasonal basis), curtailments in effect or anticipated and expiration dates thereof;

(2) Oil and Coal—(a) Furnish the estimated barrel/tonnage requirements for at least the next three years, the percentage for each year covered by firm supply contracts, as well as the possible sources of the remaining supply which must be obtained, and the estimated average cost per barrel/ton;

(b) Furnish principal terms of material oil and coal supply contracts, e.g., suppliers, delivery commencement dates, maximum barrels/tonnage available on an annual and total contract period basis, material termination and/or option rights, sulphur content guarantees (for coal) and expiration dates;

(3) Nuclear—(a) Furnish, for the next three years, the estimated tonnage requirements for uranium concentrate, the percentage of same, by year, covered by firm supply contracts and the possible sources of the remaining supply which must be obtained, and the average estimated cost per pound;

(b) Furnish a tabular summary of firm commitments for segments of the nuclear fuel supply cycle, indicating the years through which commitments extend for each major unit. (See Table VII);

(c) Discuss any current difficulties such as securing needed services in the nuclear fuel supply cycle, (See also Staff Accounting Bulletin No. 19); and

(d) Furnish principal terms of material nuclear fuel supply contracts, e.g., suppliers and significant termination or option rights.

VIII. Regulatory Climate and Rate Actions

A. Identify the material regulatory jurisdiction(s) to which the registrant is subject and, in general, the nature of the matters regulated by each agency.

B. For each material jurisdiction, i.e., one in which a material aspect of the registrant's operations is conducted, summarize the significant regulatory practices relating to fuel adjustment, purchased gas clauses and other automatic adjustment clauses, including, but not limited to, the following:

1. Whether such adjustments are automatic or subject to hearings;

2. The delay in recovery of such costs; and

3. Provisions for refunds.

C. Furnish for each material jurisdiction the following information:

1. Whether the Commission is elected or appointed and, if appointed, by whom;

2. The presence or absence of any statutory time period within which rate orders must be decided; and

3. Presence or absence of interim rate relief.

D. Provide the following data for each material jurisdiction with respect to the most recent material rate case:

1. The date of application and percentage increase requested;

2. The amount, percentage increase and rates of return on common equity and rate base granted. The company's capitalization ratio, e.g. equity to total capitalization, for rate case purposes should be set forth parenthetically;

3. The respective dates of any interim orders and the related amounts granted;

4. The presence or absence of any provisions for refunds and related amounts, if any;

5. The amount of the increase intended to provide additional cash flow and the general nature of such cash flow components;

6. The utility plant valuation method used, e.g., historical cost, fair value or other variant thereof and whether based on average or year end amounts or other variant thereof;

7. The extent to which construction work in progress (CWIP) was allowed in the rate base. If allowed only for a portion of the company's plant, the amount should be specified;

8. The test period used, e.g., historical, future, or other variant thereof, in establishing the rate base;

9. Whether the treatment of tax savings (arising from accelerated depreciation, deferred taxes and investment tax credits) is by normalization or flowthrough method or a variant thereof, e.g., either method used selectively for certain components; and

10. Whether there has been a material change in the regulatory commission rules, regulations or practices regarding any such matters as accounting practice or treatment of rate base items.

E. Provide the following information concerning all material pending rate increase applications:

1. The amounts, percentage increase, and rates of return on common equity and rate base requested and the date of application;

2. The date and amount of any interim relief granted and the existence of any provisions for refund; and

3. The amount of the request intended to provide additional cash flow and the general nature of such cash flow components.

IX. Other Material Information

In addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the statements, in the light of the circumstances under which they are made, not misleading.

Appendix—Suggested Tabular Formats

The tables set forth in this section are illustrative of the formats that might be used for presenting various information required by the guidelines covering gas and electric utilities. Registrants should refer to the General instructions for guidance as to materiality considerations in determining whether a particular table should be presented or in deciding the extent of detail to be presented therein.

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TABLE I

CAPITAL REQUIREMENTS AND SOURCES

	HISTORICAL		ESTIMATED				
	AGGREGATE OF LAST FIVE YEARS (INCLUDING LATEST YEAR)	LATEST YEAR	YEAR 1	2	3	4*	5*
REQUIREMENTS (Dollars)							
Construction (See Table II)							
Nuclear Fuel							
Other Fuel Supply Arrangements							
Exploration and Development							
Debt Maturities							
Debt and Preference Stock Sinking Funds							
Additional Working Capital Requirements							
Other (Describe if material)							
TOTAL REQUIREMENTS							
SOURCES (Percentages or Dollars)							
External:							
New Money							
Refinancings of Maturing Debts							
Internal							
TOTAL SOURCES							

* Electric Utilities Only

Instructions to Table I

1. The General Instructions provide guidance as to information to be presented concerning forward looking information.
2. Provide reasons for any material change or difference from previous estimates for both the latest year actual and forward looking period. The forward looking estimates as of the end of the prior year should normally be used as the basis for any discussion. General discussion of any previously reported interim changes to the estimates may also be appropriate.
3. Any unusual uncertainties (uncertainties other than those normally inherent in forward looking data) should be described.
4. Registrants are encouraged to provide additional details concerning the specific nature of internal and external funds estimated to be generated.

TABLE II

CONSTRUCTION PROGRAM EXPENDITURES

	HISTORICAL		ESTIMATED YEAR					
	AGGREGATE OF LAST FIVE YEARS (INCLUDING LATEST YEAR)	LATEST YEAR	1	2	3	4*	5*	
ELECTRIC								
Generation								
Transmission								
Distribution								
Other (Segregate if Material)								
TOTALS								
GAS AND/OR PIPELINE								
Field Gathering and Supply								
Synthetic Gas Projects								
LNG Plants								
Storage								
Transmission								
Distribution								
Other (Segregate if Material)								
TOTALS								
GENERAL OR COMMON FACILITIES								
TOTALS								
OTHER INFORMATION								
AFUDC Included for Each Period								
Pollution Control Expenditures								

* Electric Utilities Only

Instructions to Table II

1. The General Instructions provide guidance as to information to be presented concerning forward looking information.
2. Provide reasons for any material change or difference from previous estimates of expenditures for the latest year actual and the forward looking period. The forward looking estimates as of the end of the prior year should normally be used as the basis for any discusssion. General discussion of any previously reported interim changes to the estimates may also be appropriate.
3. Any unusual uncertainties (uncertainties other than those normally inherent in forward looking data) in the planned program should be described. In certain circumstances it may be appropriate to present the estimated expenditures in terms of ranges or to indicate the effect on the planned program if a specific event were to occur.
4. Indicate the total amount actually expended for the period subsequent to the end of the latest fiscal year, to a recent date.
5. Proposed projects to be included should at least encompass all material projects approved by the Board of Directors of the Company even if certificates filed with regulatory bodies have not yet been approved.

TABLE III
MAJOR ELECTRIC GENERATING FACILITIES PLANNED
OR UNDER CONSTRUCTION

UNIT NAME	LOCATION	FUEL TYPE	OWNERSHIP PERCENTAGE	YEAR OF PLANNED PERATION	NET COMPANY CAPABILITY (KW)	COMPANY EXPENDITURES TO LATEST YEAR END OR RECENT DATE	ESTIMATED COMPANY EXPENDITURES FOR THE NEXT FIVE YEARS	ESTIMATED TOTAL COST	ESTIMATED CONSTRUCTION COST PER KW

Instructions to Table III

1. The General Instructions provide guidance as to information to be presented regarding forward looking information.
2. Inclusion or exclusion of AFUDC should be consistent with Table II; however, amounts need not be disclosed.
3. Amounts for capability and expenditures should include only the registrant's portion in instances of partially owned facilities.

TABLE IV

ELECTRIC CAPABILITY, PEAK LOAD, AND RESERVE MARGIN ESTIMATES AND LATEST YEAR ACTUAL

	LATEST YEAR ACTUAL	ESTIMATED YEAR 1	2	3	4	5
ELECTRIC CAPABILITY						
Net Generating Capability Owned (KW):						
Oil						
Gas						
Coal						
Nuclear						
Hydro						
Other						
TOTAL OWNED						
Firm Purchases						
Other (Explain if Material)						
Less Firm Sales						
Net Capability						
SYSTEM PEAK LOAD						
RESERVE MARGIN PERCENTAGE						

Instructions to Table IV

1. The General Instructions provide guidance as to information to be presented concerning forward looking information.
2. Provide reasons for any material change or difference from previous estimates for both the latest year actual and the forward looking period. The forward looking estimates as of the end of the prior year should normally be used as the basis for any discussion.
3. Any unusual uncertainties (uncertainties other than those normally inherent in projected data) should be described. In certain circumstances it may be appropriate to indicate the effect on estimates if a specific event were to occur.
4. Material amounts of firm purchases or sales may require additional disclosure.
5. The adequacy of the forecasted reserve margins should be discussed, including any difficulties anticipated in maintaining or achieving the margins presented.

TABLE V(A)

OPERATING STATISTICS - ELECTRIC

	YEAR 1 2 3 4 5	TWELVE MONTHS OR SUBSEQUENT PERIOD ENDED
OPERATING REVENUES (Dollars)		
Residential		
Small Commercial and Industrial		
Large Commercial and Industrial		
Public Authorities		
Other (Segregate if Material)		
Sales for Resale		
TOTAL FROM ELECTRICITY SALES		
Other Operating Revenues		
TOTAL		
VOLUME SALES (KWH)		
Residential		
Small Commercial and Industrial		
Large Commercial and Industrial		
Public Authorities		
Other (Segregate if Material)		
Sales for Resale (Detail by Material Individual Customer)		
TOTAL		
SOURCES OF ELECTRIC ENERGY (KWH)		
Generated:		
Coal		
Oil		
Gas		
Nuclear		
Hydro		
Other		
TOTAL GENERATED		

(chart continued on next page)

TABLE V(A)

OPERATING STATISTICS - ELECTRIC
(continued)

	YEAR 1 2 3 4 5	TWELVE MONTHS OR SUBSEQUENT PERIOD ENDED
SOURCES OF ELECTRIC ENERGY (KWH) (continued)		
Purchased and Net Interchanged		
Total Generated and Purchased		
Company Use, Distribution Loss and Unaccounted For		
TOTAL ENERGY SOLD		
COST OF FUEL (Cents per KWH)		
Coal		
Oil		
Gas		
Nuclear		
Average for All Fuels		
NET CAPABILITY AT END OF PERIOD (KW)		
NET CAPABILITY AT TIME OF PEAK (KW)		
PEAK LOAD (KW)		
RESERVE MARGIN PERCENTAGE (Based upon Capability at Date of Peak Load)		
ANNUAL LOAD FACTOR PERCENTAGE		
POPULATION OF SERVICE AREA (Estimated)		

(chart continued on next page)

TABLE V(A)
OPERATING STATISTICS - ELECTRIC
(continued)

	YEAR 1 2 3 4 5	TWELVE MONTHS OR SUBSEQUENT PERIOD ENDED
NUMBER OF CUSTOMERS (Monthly Average)		
Residential		
Small Commercial and Industrial		
Large Commercial and Industrial		
Public Authorities		
Other (Segregate if Material)		
Resale		
TOTAL		
AVERAGE ANNUAL USE PER RESIDENTIAL CUSTOMER		
KWH		
Revenue (Dollars)		
AVERAGE REVENUE PER KWH (Cents)		
Residential		
Small Commercial and Industrial		
Large Commercial and Industrial		
Other (If Material)		
All Customers		
SALES TO SIGNIFICANT INDUSTRIES (Dollars)		
SALES BY STATE (Dollars)		
DEGREE DAYS (If Space Heating or Air Conditioning are Material)		
PERCENT OF NORMAL (Thirty Year Average)		

TABLE V(B)
OPERATING STATISTICS - GAS

	YEAR 1 2 3 4 5	TWELVE MONTHS OR SUBSEQUENT PERIOD ENDED
OPERATING REVENUES (Dollars)		
Direct:		
Firm Sales:		
Residential		
Commercial		
Industrial		
Other (Segregate if Material)		
Interruptible Sales:		
Commercial		
Industrial		
Sales for Resale		
TOTAL FROM GAS SALES		
Other Operating Revenues		
TOTAL		
VOLUME SALES (MCF)		
Direct:		
Firm Sales:		
Residential		
Commercial		
Industrial		
Other (Segregate if Material)		
Interruptible Sales:		
Commercial		
Industrial		

(chart continued on next page)

TABLE V(B)

OPERATING STATISTICS - GAS
(continued)

	YEAR 1 2 3 4 5	TWELVE MONTHS OR SUBSEQUENT PERIOD ENDED
Sales for Resale (Detail by Material Individual Customer)		
TOTAL		
SOURCES OF GAS SUPPLY (MCF)		
Purchased:		
Natural Gas Purchased (Detail Material Suppliers by General Geographic Areas)		
Liquefied Natural Gas		
Synthetic Gas		
TOTAL Purchased		
Produced:		
Natural Gas Produced (Detail by General Geographic Areas)		
Liquefied Natural Gas		
Synthetic Gas		
TOTAL Produced		
Total Purchased and Produced		
Storage Withdrawal (Delivery)		
Used in Operations and Unaccounted For		
TOTAL GAS SALES		
COST OF FUEL (Cents per MCF)		
Purchased:		
Natural Gas		
Liquefied Natural Gas		
Synthetic Gas		

(chart continued on next page)

TABLE V(B)
OPERATING STATISTICS - GAS
(continued)

	YEAR 1 2 3 4 5	TWLEVE MONTHS OR SUBSEQUENT PERIOD ENDED
COST OF FUEL (Cents per MCF) (continued)		
Average for All Purchases		
Produced:		
Natural Gas Liquefied Natural Gas Synthetic Gas		
Average for All Production		
Average for All Fuel		
SENDOUT CAPABILITY AT END OF PERIOD (MCF)		
PEAK DAILY SENDOUT (MCF)		
AVERAGE DAILY SENDOUT (MCF)		
POPULATION OF SERVICE AREA (Estimated)		
NUMBER OF CUSTOMERS (Monthly Average)		
Direct:		
Firm:		
Residential Commercial Industrial Other (Segregate if Material)		

(chart continued on next page)

TABLE V(B)
OPERATING STATISTICS - GAS
(continued)

	YEAR 1 2 3 4 5	TWELVE MONTHS OR SUBSEQUENT PERIOD ENDED
Interruptible:		
Commercial		
Industrial		
Sales for Resale		
TOTAL		
AVERAGE ANNUAL USE PER RESIDENTIAL CUSTOMER		
MCF		
Revenue (Dollars)		
AVERAGE REVENUE PER MCF (Cents)		
Direct:		
Firm:		
Residential		
Commercial		
Industrial		
Other (If Material)		
Interruptible:		
Commercial		
Industrial		
Sales for Resale		
All Customers		
SALES TO SIGNIFICANT INDUSTRIES (Dollars)		

(chart continued on next page)

TABLE V(B)
OPERATING STATISTICS - GAS
(continued)

	YEAR 1 2 3 4 5	TWELVE MONTHS OR SUBSEQUENT PERIOD ENDED
SALES BY STATE (Dollars)		
DEGREE DAYS		
PERCENT OF NORMAL TEMPERATURES (Thirty Year Average)		

TABLE V(C)

OPERATING STATISTICS - PIPELINE

	YEAR 1 2 3 4 5	TWELVE MONTHS OR SUBSEQUENT PERIOD ENDED
OPERATING REVENUES (Dollars)		
Sales for Resale		
Other Operating Revenues		
TOTAL		
VOLUME SALES (MCF)		
(Detail by Material Individual Customers)		
TOTAL		
SOURCES OF GAS SUPPLY (MCF)		
(Provide same detail as shown for gas utilities in Table V(B))		
COST OF GAS SUPPLY (Cents per MCF)		
(Provide same detail as shown for gas utilities in Table V(B))		
DELIVERY CAPABILITY AT END OF PERIOD (MCF)		
PEAK DAILY DELIVERIES (MCF)		
AVERAGE DAILY DELIVERIES (MCF)		
AVERAGE REVENUE PER MCF (Cents)		
TRANSPORTED FOR OTHERS		
Total Transported (MCF)		
Average Charge Per MCF		
Average Daily Deliveries		

Instructions to Table V

1. Customer classifications provided in Federal Energy Regulatory Commission Forms 1 and 2 should be generally used; however, immaterial categories may be combined.
2. The criteria used for classifying customers as small or large commercial and industrial should be disclosed.

TABLE VI

FUEL COST HISTORY - ELECTRIC UTILITIES

	YEAR 1	2	3	4	5	TWELVE MONTHS OR SUBSEQUENT PERIOD ENDED
AVERAGE COST OF FUEL (Dollars)						
Coal:						
Per Ton						
Per BTU						
Oil:						
Per Barrel						
Per BTU						
GAS:						
Per MCF						
Per BTU						
Uranium Concentrate:						
Per Pound						
Per BTU						

TABLE VII

NUCLEAR FUEL SUPPLY CYCLE COMMITMENTS

UNIT	NET CAPABILITY (KW)	URANIUM CONCENTRATE	CONVERSION TO HEXAFLUORIDE	ENRICHMENT	FABRICATION	SPENT FUEL STORAGE	REPROCESSING

BILLING CODE 8010-01-C

Statutory Authority

The Commission hereby publishes for comment Guides 63 and 6, "Proposed Guidelines for Disclosure by Electric and Gas Utility Company," pursuant to the Securities Act of 1933, particularly sections 7 and 10 thereof, and the Securities Exchange Act of 1934, particularly sections 12, 13, 15(d) and 23(a).

(Secs. 7, 10, 48 Stat. 78, 81; secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; sec. 205, 48 Stat. 906; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 10, 78 Stat. 565–568, 569, 570–574, 589; secs. 1, 2, 82 Stat. 454; secs. 1, 2, 28(c), 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 77g, 77j, 77*l*, 78*l*, 78m, 78o(d), 78w(a)).

By the Commission.

George A. Fitzsimmons,

Secretary.

June 25, 1979.

[FR Doc. 79-20241 Filed 6-29-79; 8:45 am]

BILLING CODE 8010-01-M

federal register

Monday
July 2, 1979

Part VI

Securities and Exchange Commission

Safe Harbor Rule for Projections; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 240, 250 and 260

[Release Nos. 33-6084, 34-15944, 35-21115, 39-532]

Safe Harbor Rule for Projections; Final Rule

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting a rule providing a safe harbor from applicable liability provisions of the federal securities laws for statements made in filings with the Commission or in annual reports to shareholders that contain or relate to projections. In general, statements containing or relating to (i) projections of certain financial items, (ii) management plans and objectives, (iii) future economic performance included in management's discussion and analysis of the summary of earnings and (iv) disclosed assumptions underlying or relating to these statements would be deemed not to be false or misleading under the federal securities laws unless they were prepared without a reasonable basis or disclosed other than in good faith. The rule is being adopted in order to further the Commission's goal of encouraging the disclosure of projections and forward looking information both in Commission filings and in general.

EFFECTIVE DATE: July 30, 1979.

FOR FURTHER INFORMATION CONTACT: John J. Heneghan, Office of the Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202) 755-1240.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today adopted a rule designed to provide a safe harbor from the applicable liability provisions of the federal securities laws for statements relating to or containing (1) projections of revenues, income (loss), earnings (loss) per share or other financial items, such as capital expenditures, dividends, or capital structure, (2) management plans and objectives for future company operations, and (3) future economic performance included in management's discussion and analysis of the summary of earnings or quarterly income statements.[1] The rule is based upon the alternatives that were proposed in Securities Act Release No. 5993 (November 7, 1978) (43 FR 53251).[2] The rule is adopted in furtherance of the Commission's goal of encouraging the disclosure of projections and other items of forward-looking information.[3] In a related action, the Commission is withdrawing the reference in note (a) to Rule 14a-9 (17 CFR 240.14a-9) to prediction of dividends as a possible example of a false or misleading statement. This release contains a brief discussion of the background of the proposed rules, the views of the commentators, and the provisions of the rule as adopted.

Background and Purpose

In securities Act Release No. 5699, the Commission published for comment proposed Guides for projection disclosure and stated its belief that reasonably based and adequately presented projections should not subject issuers to liability under the federal securities laws solely because the projected results did not materialize.[4] In this regard, the Commission noted that even the most carefully prepared and thoroughly documented projections may prove inaccurate. Several of the commentators responding to the release urged the adoption of a safe harbor rule for projections made by issuers and reviewed by third parties, stating that the absence of a safe harbor rule might discourage the dissemination of projections.

While the proposed Guides were pending, the Commission's Advisory Committee on Corporate Disclosure also considered the subject of disclosure of forward looking information. In its final report, the Advisory Committee concurred with the Commission's views, recommending, however, the adoption of a safe harbor rule in order to encourage voluntary projection disclosure. Accordingly, at the time revised staff guides were published in final form, the Commission proposed its own safe harbor rule for comment in Release 33-5993 while at the same time requesting comments on the rule recommended by the Advisory Committee in its final report. Both rules as proposed would provide protection to statements, whether or not included in filings with the Commission.

The Commission's proposed rule provided that for purposes of applicable liability provisions of the federal securities laws [5] a statement containing a projection of revenues, income (loss), and earnings (loss) per share would be deemed not to be an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement not misleading, or the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business, or an artifice to defraud as those terms are used in the applicable statutory provisions or any rules thereunder if the statement (1) was prepared with a reasonable basis and (2) was disclosed in good faith. As proposed, the rule applied to projections made by issuers (other than registered investment companies): (1) with a class of securities registered pursuant to Section 12 of the Exchange Act, (2) the securities of which are exempt from that Act under section 12(g)(2)(G) thereof or (3) which are subject to the reporting requirements of Section 15(d) of the Exchange Act. An additional eligibility standard of the proposed rule required the issuer to have filed all the material required to be filed under sections 13, 14, or 15(d) of the Exchange Act at the time the statement is made. The proposed rule also would have extended to statements made on behalf of the issuer at the issuer's request such as statements made by third party reviewers.

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[1] Guides 22 and 1 under the Securities Act of 1933 (the "Act") (15 U.S.C. 77a et seq. as amended by Pub. L. No. 94-29, June 4, 1975) and the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29, June 4, 1975), state that the analysis of the summary of earnings required by certain registration statements and reports such as those filed on Forms S-1, S-7, 10, and 10-K should include a discussion of material facts, whether favorable or unfavorable, required to be disclosed or disclosed in the prospectus which, in the opinion of management, may make historical operations or earnings as reported in the summary of earnings not indicative of current or future operations or earnings. In addition, Instruction 5 to Part I of Form 10-Q (17 CFR 249.308a) calls for an analysis of the quarterly income statements included in that form. Instruction 6 to Form 10-Q states that management also may furnish any additional information related to the periods being reported on which, in its opinion, is significant to investors.

[2] On the same day that the "safe harbor" rules were proposed, the Commission also published revised Guides 62 and 5, "Disclosure of Projections of Future Economic Performance," under the Act and the Exchange Act. Securities Act Release No. 5992 (November 7, 1978) (43 FR 53246). The Guides set forth the views of the Division of Corporation Finance regarding important factors to be considered in disclosing projections of future company economic performance in reports and other Commission filings.

[3] See Securities Act Release No. 5992, November 7, 1978, 43 FR 53246.

[4] Securities Act Release No. 5699, 41 FR 19986, April 23, 1976. The proposed guides were revised and adopted in Securities Act Release No. 5992, *supra*.

[5] See secs. 11, 12 and 17 (15 U.S.C. 77 k, l, and q) of the Securities Act of 1933; secs. 10, 18, and 20 (15 U.S.C. 78j, r, and t) of the Securities Exchange Act of 1934; sec. 16 (15 U.S.C. 79p) of the Public Utility Holding Company Act of 1935; and sec. 323 (15 U.S.C. 77sss) of the Trust Indenture Act of 1939.

The Advisory Committee's rule provided protection for a wider variety of forward looking information than was covered by the Commission's proposed rule. The Advisory Committee's rule would have applied to statements of management concerning future company economic performance or of management plans and objectives for future company operations. The Advisory Committee rule also was not conditioned on status as a reporting company or currency of filings. Most significantly, the Advisory Committee rule had a different burden of proof. The rule would have deemed a statement not to be false or misleading under the federal securities laws unless the statement was prepared without a reasonable basis or was disclosed other than in good faith. Thus the burden of proof would have been on the plaintiff to show lack of reasonable basis and absence of good faith.

In proposing alternative formulations, the Commission requested comment as to which format would further the goal of encouraging projection disclosure in a manner consistent with investor protection. Over ninety detailed letters of comment were received and considered by the Commission.[6] The following portions of the release discuss the major differences between the alternative proposals, the views of the commentators, the Commission's responses, and the rule adopted today.

General

In general, the commentators supported the Commission's effort to implement the Advisory Committee's recommendation to encourage the disclosure of projections and forward-looking information. However, some commentators expressed concern that, despite the voluntary nature of the program, companies choosing not to make projections might face pressure to do so, as other companies begin to disclose forward looking information. In addition these commentators were concerned that undue reliance may be placed on projections by investors. Notwithstanding these concerns, there was widespread support for the adoption of a safe harbor rule. By and large, the commentators shared the Advisory Committee's view that a safe harbor provision is needed if the Commission's goal of encouraging the disclosure of projections is to be realized. Most commentators favored the adoption of a rule that would incorporate aspects of each alternative rule proposed, and the rule adopted today incorporates aspects of both alternative formulations. Specific portions of the final rule are discussed immediately below.

[6] See comments collected in file No. S7-760.

Burden of Proof

The Commission's proposed rule placed the burden of proof on the defendant to prove that a projection was prepared with a reasonable basis and was disclosed in good faith. The proposed rule reflected the Commission's concern as to the difficulties faced by plaintiffs since the facts are in the exclusive possession of the defendants.

The Advisory Committee rule would place the burden of proof on the plaintiff, along the lines of the Commission's existing safe harbor rules for replacement cost information and oil and gas reserve disclosures under Regulation S-X.[7]

This aspect of the proposed rules drew the most comment. Virtually all of tthe commentators expressed support for the Advisory Committee's formulation that would place the burden of proof on the plaintiff to establish the absence of a reasonable basis and good faith. Most commentators were of the view that the Commission's proposed rule would deter companies from making projections, thereby negating the Commission's objective. These commentators also believed that the Commission's proposed rule would in all likelihood increase the institution of frivolous, nuisance litigation based solely on the failure of results to match projections, with a resulting cost and time burden to be borne by the registrants.

Many commentators also took issue with the premises of the Commission's proposed rule, i.e., the concern that the burden of proof for plaintiffs might be insurmountable. These commentators asserted that the burden on a prospective plaintiff is not onerous in light of the current liberal discovery procedures available in federal courts as well as the Commission's broad investigatory powers. They also pointed out that cases involving projection disclosure have shown that discovery procedures and availability of public information have afforded plaintiffs an adequate basis to prove their cases against defendants.[8] In the view of some commentators, the proposed rule was in fact narrower than existing law and would afford less protection than no rule at all.

[7] 17 CFR 210.3-17(g) and 210.3-18(k)(6)(v) respectively.

[8] See, e.g., *Marx* v. *Computer Sciences Corp.* 507 F.2d 485 (9th Cir. 1974); *Beecher* v. *Able*, 374 F.Supp. 341 (S.D.N.Y., 1974); *Green* v. *Jonhop*, 358 F.Supp. 413 (D. Ore. 1973).

In view of the Commission's overall goal of encouraging projection disclosure and in light of the factors cited by the commentators, the Commission has determined to adopt the standard recommended by the Advisory Committee. The Commission's initiatives in projection disclosure are experimental in nature and will be watched closely to assure that the new policies embodied therein, including the adoption of this rule, do not yield results inconsistent with investor protection.[9]

Retention of Good Faith Requirement

Both the Commission's and the Advisory Committee's proposed rules require that reasonably based projections be disclosed in good faith. Several commentators believed that no objective standard exists for determining whether the "good faith" portion of the requirement has been met and that the term was ambiguous at best. Some commentators did not see how a reasonably based projection could be prepared and disclosed other than in good faith, and suggested that if a projection were found to have been prepared and disclosed with a reasonable basis, good faith disclosure is implicit.

On balance, the Commission believes that in light of the experimental nature of its program to encourage projection disclosure and the possibility of undue reliance being placed on projections, the use of a good faith standard in the rule is appropriate. The Commission also notes that there is ample precedent for the concept of good faith in other provisions of the federal securities laws.[10]

Nature of Information Protected by the Rule

The Commission's proposed rule related only to projections of revenues,

[9] With respect to forward looking statements, the rule interprets various terms of the liability provisions of the federal securities laws to rquire a showing that a forward looking statement was prepared without a reasonable basis and disclosed other than in good faith. If a plaintiff seeking to establish liability on the basis of a forward looking statement can make such a showing, he and the defendant must still meet whatever standards are applicable in the circumstances of the particular claim and the relief sought. *See e.g.*, Sections 12, and 17 [15 U.S.C. 771 and g] of the Securities Act and Sections 10, 18 and 20 [15 U.S.C. 78j, r, and t] of the Exchange Act.

[10] For example, Section 20(a) of the Exchange Act (15 U.S.C. 78t(a)) imposes liability on control persons for violations of that Act by persons controlled, unless the controlling person acted in good faith and did not directly induce the act or acts constituting the violation. Sections 18(a) and 28(e)(1) of the Exchange Act (15 U.S.C. 78r(a) and 78bb(e)(1) respectively) and Section 2(a)(41)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(41)(A)) also incorporate the concept of good faith determination.

income (loss), earnings (loss) per share or other financial items. The advisory Committee's proposed rule refers generally to statements of "management projection[s] of future company economic performance" or of "management plans and objectives for future company operations," and corresponds with that Committee's recommendation that disclosure of other types of forward looking information beyond those items customarily projected also should be encouraged.

Most commentators favored protecting a broader category of forward looking items than included in the Commission's proposed rule. Several suggested that since the Guides state that projections need not be limited to the three items traditionally presented, the scope of the safe harbor rule should correspond with this position. The commentators also were unsure of whether the phrase "other financial items" as used in the Commission's proposed rule was intended to cover the items referred to by the Advisory Committee.

At the time the alternative rules were proposed, the Commission noted that guidelines for the disclosure of these additional categories of forward looking information were under general consideration, as well as in conneciton with possible amendments to guides 22 (Management Analysis of the Financial Statements) and 26 (Statement of Dividend Policy), and that safe harbor provisions would be considered when further proposals relating to other categories of forward-looking information were published for comment. Although specific guidelines relating to additional types of forward looking information are still under consideration, the Commission has determined that the scope of the safe harbor rule can be expanded at this time to cover those types of information that the commentators and the Advisory Committee urged should be within the protection of the rule. Accordingly, the rule adopted today expands the items in the proposed rule to cover projections of other financial items such as capital expenditures and financing, dividends, and capital structure,[11] statements of management plans and objectives for future company operations, and future economic performance included in management's discussion and analysis of the summary of earnings or quarterly income statements.[12] The rule has been revised to refer specifically to these other items of forward looking information in light of the commentators' suggestions that the broader coverage of the Advisory Committee rule be made explicit.

Disclosure of Assumptions

In Release 33–5992, the Commission emphasized the significance of disclosure of the assumptions that underlie forward-looking statements. As indicated in that release and Guide 62, disclosure of assumptions is believed to be an important factor in facilitating investors' ability to comprehend and evaluate these statements.

While the Commission has determined to follow the Advisory Committee's recommendation that disclosure of assumptions not be mandated under all circumstances, it wishes to re-emphasize its position on significance of assumption disclosure. Under certain circumstances the disclosure of underlying assumptions may be material to an understanding of the projected results. The Commission also believes that the key assumptions underlying a forward looking statement are of such significance that their disclosure may be necessary in order for such statements to meet the reasonable basis and good faith standards embodied in the rule. Because of the potential importance of assumptions to investor understanding and in order to encourage their disclosure, the rule as adopted indicates specifically that disclosed assumptions also are within its scope.[13]

Persons Covered by the Rule

The Commission's proposed rule was intended to protect statements made "by or on behalf of" the issuer in order to include statements of an outside reviewer of management's projections. The Advisory Committee's rule applied to management statements and does not specifically apply to statements by third party reviewers or define "management."

Most of the commentators believed that reviewers should be afforded protection under the rule and many suggested that the text of the final rule should specifically refer to reviewers. Based on a review by the Commission of these comments and of the issues involved, the final rule refers to statements made by or on behalf of an issuer or by an outside reviewer retained by the issuer.[14]

Companies Eligible for Protection

As proposed, the rule would have applied only to statements made if at the time of such statement a class of the registrant's securities was registered under Section 12(b) or (g) of the Exchange Act (or exempt from registration under Section 12(g)(2)(G) thereof), or the issuer was subject to the reporting requirements of Section 15(d) of the Exchange Act. The proposed rule would not have been available to statements made with respect to investment companies registered under the Investment Company Act of 1940.[15] As noted above, the availability of the Advisory Committee rule was not conditioned on a particular company's reporting or other status.

The Commission proposed the rule in this fashion, stating that projections might best be evaluated in the context of financial and other information about the company that is likely to be available through Exchange Act reports directly or other information sources that reflect the information contained in such reports.

Although some commentators were of the view that there should be no company status limitations and that forward looking information may be particularly important in assessing new enterprises, some commentators did not object to conditioning the availability of the rule on the existence of a reporting history, at least as an initial step. However, many questioned the propriety of limiting the availability of the rule to reporting companies while suggesting in the Guides that the absence of a history of operations or experience in projecting need not

[11] In this connection, the Commission today has published proposed staff guidelines for disclosure in registration statements and reports filed by electric and gas utility companies. Securities Act Release No. 6085, see Proposed Rules in this issue. These proposed guidelines expressly request disclosure of certain forward looking information which would be covered by the safe-harbor rule adopted today.

[12] *See* note 1 supra.

[13] Assuming that a forward-looking statement is otherwise made with a reasonable basis and in good faith, the failure to disclose one or more assumptions should not result in any difference in the burden of coming forward. In most, if not all cases, assumptions are an integral part in the formulation of forward-looking information. Disclosure or non-disclosure does not alter this relationship. Consequently, the language in the rule affording protection to disclosed assumptions should not be interpreted to create a negative inference that disclosure of forward-looking information without accompanying disclosure of assumptions is not protected. That language was included in the rule to make it clear that the entire disclosure which is made is protected and to afford maximum incentive to the voluntary disclosure of assumptions.

[14] As indicated in Release 33–5992, relationships between a reviewer and the issuer should, of course, be disclosed. It should be noted that the final rule does not, in any event, cover statements concerning the relationship between the issuer and an outside reviewer.

[15] 15 U.S.C. 80a et seq.

preclude an issuer from preparing projections with a reasonable basis.[16]

The Commission has considered the views of the commentators and agrees that the safe harbor rule should be available to as many companies as possible. However, the Commission is also concerned that there be a sufficient informational context in which a projection can be assessed and evaluated by investors, analysts, and others. Accordingly, the Commission has determined to make the rule available to reporting companies and has expanded the availability of the rule to non-reporting companies who include forward-looking statements in registration statements filed under the Securities Act, such as first time registrants using Form S–1 or Form S–18.[17]

Statements made by such companies in registration statements, Exchange Act reports, annual reports to shareholders, and other documents filed with the Commission will be covered by the rule. The rule also will be available for disclosures or reaffirmations of these forward-looking statements made at subsequent times, provided, of course, that such disclosures or reaffirmations meet the standards of reasonable basis and good faith at the time they are subsequently disclosed or reaffirmed. Statements made outside of these documents will be covered by the rule only if they are included in documents filed with the Commission or, for those companies the securities of which are registered pursuant to Section 12 of the Exchange Act, in annual reports to shareholders meeting the requirements of Rule 14a–3(b) and (c) or Rule 14c–3(a) and (b) under the Exchange Act.[18]

The Commission believes that the inclusion of forward-looking statements in filed documents and annual reports will provide investors with a better framework for their analysis through the context of certified financial statements and other disclosure appearing in registration statements and reports. In addition, staff review of those documents and the liability provisions of the Securities Act with respect to registration statements will help to assure that disclosure of forward-looking information will be made with greater care.

In addition, linking the availability of the rule for statements made outside of filed documents to subsequent inclusion in such documents reflects the Commission's continuing concern regarding the selective disclosure of forward-looking information. The inclusion of forward-looking statements in these documents will promote greater accessibility to this information for all investors.

Duty To Correct

As indicated in Release 33–5992, the Commission reminded issuers of their responsibility to make full and prompt disclosure of material facts, both favorable and unfavorable, where management knows or has reason to know that its earlier statements no longer have a reasonable basis. With respect to forward-looking statements of material facts made in relation to specific transactions or events (such as proxy solicitations, tender offers, and purchases and sales of securities), there is an obligation to correct such statements prior to consummation of the transaction where they become false or misleading by reason of subsequent events which render material assumptions underlying such statements invalid. Similarly, there is a duty to correct where it is discovered prior to consummation of a transaction that the underlying assumptions were false or misleading from the outset.

Moreover, the Commission believes that, depending on the circumstances, there is a duty to correct statements made in any filing, whether or not the filing is related to a specified transaction or event, if the statements either have become inaccurate by virtue of subsequent events, or are later discovered to have been false and misleading from the outset, and the issuer knows or should know that persons are continuing to rely on all or any material portion of the statements.[19]

This duty will vary acording to the facts and circumstances of individual cases. For example, the length of time between the making of the statement and the occurrence of the subsequent event, as well as the magnitude of the deviation, may have a bearing upon whether a statement has become materially misleading.

Current Filings Requirement

Several commentators questioned the appropriateness of the proposed requirement that Exchange Act reporting companies must have filed all annual, periodic, and other reports under that Act in order to be eligible for the safe harbor rule. Some were concerned that an inadvertent or immaterial filing delay could operate to deprive a company of protection under the rule for a statement that may fully meet the substantive standards of the rule. In this connection, other commentators did not perceive a strong relationship between the preparation of forward-looking statements and currency of Exchange Act filings.

While the existence of current Exchange Act reports also will provide additional information with which to assess forward-looking statements, the Commission agrees that the availability of the safe harbor rule should not be dependent upon a technical or inmaterial circumstance. Accordingly, it has determined not to adopt the requirement that reporting companies be current in all Exchange Act filings. However, in light of certified financial statements and other extensive disclosure contained in annual reports on Form 10–K [17 CFR 249.310] that could provide contextual information for evaluation of forward-looking statements, the rule requires that reporting companies must have filed their most recent Form 10–K in order to be eligible for the safe harbor. Although no other requirement for currency of Exchange Act filings is adopted, the Commission believes that serious delinquency in filing or deficiency in content of Exchange Act filings may significantly impair a registrant's ability to prepare and disclose forward-looking statements with a reasonable basis.

Investment Companies

Those commentators who addressed the investment company issue expressed mixed views regarding the advisability of including investment companies in the safe-harbor rule. Some commentators did not perceive a basis for distinguishing between investment companies and other issuers and believed that the standard of reasonableness and good faith should be

[16] See Guides 62 and 5, paragraph 1, Securities Act Release No. 5992, 43 FR 53246, November 7, 1978.

[17] 17 CFR 239.11 and 17 CFR 239.28 respectively. Absent voluntary or mandatory registration under Section 12 of the Exchange Act, 15 USC 781, first time registrants are not subject to the reporting provisions of that Act until their Securities Act registration statements have become effective. See Section 15(d) of the Exchange Act, 15 USC 78o(d), and Rules 15d–1, 15d–11, and 15d–13 thereunder, 17 CFR 240.15d–1, 15d–11 and 15d–13 respectively.

[18] Rules 14a–3(c) and 14c–3(b) under the Exchange Act (17 CFR 240.14a–3(c) and 240.14c–3(b) respectively) provide that annual reports to shareholders are not deemed to be "filed" with the Commission or subject to the liabilities of Section 18 of that Act except to the extent an issuer specifically requests that it be treated as part of the proxy soliciting material or incorporates it by reference into the proxy statement.

[19] *See, e.g., Ross* v. *A. H. Robins Co., Inc.*, CCH Fed. Sec. L. Rep. ¶ 96,737 (S.D.N.Y. 1979), *appeal pending*, (2d Cir. No. 79–7106) [annual reports and prospectuses], *SEC* v. *Shattuck Denn Mining Corp.*, 297 F. Supp. 470 (S.D.N.Y. 1968) (press release). *See also Fischer* v. *Kletz*, 266 F. Supp. 180 (S.D.N.Y. 1967) (accountant's failure to disclose subsequent finding of falsity in certified financial statements included in annual reports to shareholders and Form 10–K).

the appropriate benchmark for all companies.

Other commentators believed that the type of information generated by investment companies would be more difficult to forecast with reliability and is dependent upon market factors and responses to market events that are inherently unpredictable.

While the Commission does not believe that investment companies by definition are not capable of preparing reasonably based projections capable of disclosure in an appropriate format, it is of the view that the nature of information reported by investment companies is sufficiently distinct to warrant separate consideration. Accordingly, the Commission has determined not to extend the safe-harbor rule to investment company projections at this initial, experimental stage of its efforts to encourage disclosure of forward looking information. As experience is gained with disclosure of forward looking information by other companies, the Commission will consider whether an extension of the rule to investment companies is appropriate and whether separate guides for disclosure of projections by investment companies can be developed.

Effective Date and Operation

The rule will be effective for statements made on or after July 30, 1979. In view of the Commission's responsibility to protect investors and safeguard the public interest in connection with purchases and sales of securities, the adoption of these rules is in the nature of an experiment. The operation of the guides and the rules will be watched closely to limit their availability if the protection of investors so requires. The Commission anticipates that as the staff gains further experience with disclosure of forward-looking information, it will recommend the publication of such guidelines or interpretive releases on specific aspects of such disclosure in order to provide guidance to issuers.

Authority

The Commission is adopting the rules pursuant to its authority under Section 19(a) of the Securites Act of 1933 (15 U.S.C. 77s(a)), Sections 3(b) and 23(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78c and 78w(a)(1)), Section 20 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79t), and Section 319(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77sss(a)). In addition to the definitional authority provided therein, Section 19(a) of the Securities Act, Section 23(a)(1) of the Exchange Act, Section 20(d) (15 U.S.C. 79t(d)) of the Holding Company Act and Section 319(c) of the Trust Indenture Act (15 U.S.C. 77sss(c)) provide that no liability under these acts "shall apply to any act done or omitted in good faith in conformity," with any rule or regulation of the Commission notwithstanding that such rule or regulation may later be amended, rescinded, or determined invalid.

Pursuant to Section 23(a)(2) of the Exchange Act (15 U.S.C. 78w(a)(2)), the Commission has considered the effect that the rules would have on competition and is not aware at this time of any burden that the rules would impose on competition not necessary or appropriate in furtherance of the purposes of that Act.

Text of the Rules

Title 17 of the Code of Federal Regulations is amended by adding the following sections to parts 230, 240, 250 and 260.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

§ 230.175. Liability for forward-looking statements by issuers.

(a) A statement within the coverage of paragraph (b) below which is made by or on behalf of an issuer or by an outside reviewer retained by the issuer shall be deemed not to be a fraudulent statement (as defined in paragraph (d) below), unless it is shown that such statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

(b) This rule applies to (1) a forward looking statement (as defined in paragraph (c) below) made in a document filed with the Commission or in an annual report to shareholders meeting the requirements of Rules 14a–3(b) and (c) or 14c–3(a) and (b) under the Securities Exchange Act of 1934, (2) a statement reaffirming the forward looking statement referred to in (b)(1) subsequent to the date the document was filed or the annual report was made publicly available, or (3) a forward looking statement made prior to the date the document was filed or the date the annual report was made publicly available if such forward looking statement is reaffirmed in a filed document or annual report made publicly available within a reasonable time after the making of such forward looking statement.

(c) For the purpose of this rule the term "forward looking statement" shall mean and shall be limited to:

(1) A statement containing a projection of revenues, income (loss), earnings (loss) per share, capital expenditures, dividends, capital structure or other financial items;

(2) A statement of management's plans and objectives for future operations;

(3) A statement of future economic performance contained in management's discussion and analysis of the summary of earnings (as called for by Guides 22 and 1 under the Securities Act of 1933 and the Securities Exchange Act of 1934 and by instruction 5 to the Quarterly Report on Form 10–Q); or

(4) Disclosed statements of the assumptions underlying or relating to any of the statements described in (1), (2), or (3) above.

(d) For the purpose of this rule the term "fraudulent statement" shall mean a statement which is an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement not misleading, or which constitutes the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business, or an artifice to defraud, as those terms are used in the Securities Act of 1933 or the rules or regulations promulgated thereunder.

(e) Notwithstanding any of the provisions of paragraphs (a) through (d), this rule shall apply only to forward looking statements made by or on behalf of an issuer if, at the time such statements are made or reaffirmed, the issuer is subject to the reporting requirements of the Securities Exchange Act of 1934 and has filed its most recent annual report on Form 10–K, or, if the issuer is not subject to the reporting requirements of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Securities Act of 1933.

(f) Notwithstanding any of the provisions of paragraphs (a) through (e), this rule does not apply to statements made by or on behalf of an issuer that is an investment company registered under the Investment Company Act of 1940.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.3b-6 Projections of future economic performance by issuers.

(The text of the rule is identical to that above except that reference to the Securities Act of 1933 in paragraph (d) should read "Securities Exchange Act of 1934.")

§ 240.14a-9 False or misleading statements.

* * * * *

Note.—The following are some examples of what, depending upon particular facts and circumstances, may be misleading within the meaning of this section.

(a) Predictions as to specific future market values.

* * * * *

PART 260—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

§ 250.103A Projections of future economic performance by issuers.

(The text of the rule is identical to that above except that reference to the Securities Act of 1933 in paragraph (d) should read "Public Utility Holding Company Act of 1935 and other acts referred to in Section 16(b) thereof.")

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

§ 260.0-11 Projections of future economic performance by issuers.

(The text of the rule is identical to that above except that reference to the Securities Act of 1933 in paragraph (d) should read "Trust Indenture Act of 1939 and other acts referred to in Section 323(b) thereof.")

[Secs. 19(a), 3(b), 23(a)(1), 20, 319(a), 48 Stat. 85, 882, 901; sec. 209, 48 Stat. 908; 49 Stat. 833; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; 53 Stat. 1173; secs. 3, 18, 89 Stat. 97, 155; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77s(a), 78c(b), 78w(a)(1), 79t, 77sss(c)].

By the Commission.

George A. Fitzsimmons,

Secretary.

June 25, 1979.

[FR Doc. 79-20300 Filed 6-29-79; 8:45 am]

BILLING CODE 8010-01-M

Reader Aids

Federal Register
Vol. 44, No. 128
Monday, July 2, 1979

INFORMATION AND ASSISTANCE

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

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523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
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Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects

FEDERAL REGISTER PAGES AND DATES, JUNE

38437-38816

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLS	HEW/FDA		DOT/SLS	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

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

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

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 1979

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
July 2	July 17	August 1	August 16	August 31	October 1
July 3	July 18	August 2	August 17	September 4	October 1
July 5	July 20	August 6	August 20	September 4	October 3
July 6	July 23	August 6	August 20	September 4	October 4
July 9	July 24	August 8	August 23	September 7	October 9
July 10	July 25	August 9	August 24	September 10	October 9
July 11	July 26	August 10	August 27	September 10	October 9
July 12	July 27	August 13	August 27	September 10	October 10
July 13	July 30	August 13	August 27	September 11	October 11
July 16	July 31	August 15	August 30	September 14	October 15
July 17	August 1	August 16	August 31	September 17	October 15
July 18	August 2	August 17	September 4	September 17	October 16
July 19	August 3	August 20	September 4	September 17	October 17
July 20	August 6	August 20	September 4	September 18	October 18
July 23	August 7	August 22	September 6	September 21	October 22
July 24	August 8	August 23	September 7	September 24	October 22
July 25	August 9	August 24	September 10	September 24	October 23
July 26	August 10	August 27	September 10	September 24	October 24
July 27	August 13	August 27	September 10	September 25	October 25
July 30	August 14	August 29	September 13	September 28	October 29
July 31	August 15	August 30	September 14	October 1	October 29

CFR CHECKLIST; 1978/1979 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1978/1979. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1979):

Title	Price
1	$3.00
2 [Reserved]	
4	4.50
7 Parts:	
0-52	6.75
53-209	5.00
700-899	6.00
900-944	5.25
945-980	3.75
981-999	3.75
1000-1059	6.00
1060-1119	6.50
1200-1499	6.25
2852	6.00
2853-end	4.50
10 Parts:	
0.199	6.50
13	5.00
14 Parts:	
1-59	7.50
60-199	7.25
200-1199	7.00
1200-end	3.50
15	7.50
16 Parts:	
0-149	4.50
150-999	4.25
1000-end	5.00

CFR Unit (Rev. as of Apr. 1, 1978):

17	$8.25
18 Parts:	
0-149	5.00
150-end	5.00
19	6.00
20 Parts:	
1-399	3.50
400-499	5.00
500-end	4.50
21 Parts:	
1-99	4.00
100-199	6.00
200-299	2.75
300-499	5.75
500-599	5.00
600-1299	4.25
1300-end	4.50
22	5.50
23	5.00
24 Parts:	
0-499	8.25
500-end	9.00
25	5.50
26 Parts:	
1 (§§ 1.0-1.169)	5.75
1 (§§ 1.301-1.400)	4.00
1 (§§ 1.401-1.500)	4.75
1 (§§ 1.501-1.640)	4.75
1 (§§ 1.641-1.850)	4.75
1 (§§ 1.851-1.1200)	6.00
1 (§§ 1.1201-end)	6.50
2-29	4.75
30-39	5.50
40-299	5.50
300-499	4.75
600-end	3.00
27	8.75

CFR Unit (Rev. as of July 1, 1978):

28	$4.50
29 Parts:	
0-499	6.25
500-1899	6.25
1900-1919	7.00
1920-end	5.25
30	6.25
31	6.25
32 Parts:	
40-399	8.50
400-589	4.50
590-699	4.50
700-799	6.00
800-999	5.50
1000-1399	3.50
1400-1599	4.50
1600-end	3.00
32A	4.00
33 Parts:	
1-199	6.25
200-end	5.75
35	4.75
36	5.00
37	4.00
38	6.50
39	4.25
40 Parts:	
0-49	4.75
50-59	6.50
60-99	8.50
100-399	5.50
400-end	8.75
41 CFR:	
Chapters:	
1-2	6.50
3-6	5.75
7	2.75
8	2.75
10-17	4.75
Chapter 18, Parts:	
1-52 (Vol. I, Rev. 7/31/78)	5.25
1-52 (Vol. II, Rev. 7/31/78)	7.00
1-52 (Vol. III, Rev. 7/31/78)	5.75
Chapters:	
19-100	4.50
CFR Index	5.00
101-end	8.50

CFR Unit (Rev. as of Oct. 1, 1978):

42 Parts:	
1-399	$6.00
400-end	5.50
43 Parts:	
1-999	4.25
1000-end	6.50
44 [Reserved]	
45 Parts:	
1-99	4.75
100-149	5.75
150-199	5.25
200-499	3.50
500-end	8.25
46 Parts:	
1-29	3.25
30-40	3.25
41-69	4.50
70-89	3.75
90-109	3.25
110-139	3.25
140-155	3.50
156-165	4.25
166-199	3.00
200-end	6.50
47 Parts:	
0-19	5.00
20-69	5.75
70-79	5.25
80-end	7.00
48 [Reserved]	
49 Parts:	
1-99	3.25
100-199	9.25
200-999	12.00
1000-1199	5.00
1200-1299	6.50
1300-end	4.50
50	5.75

AGENCY ABBREVIATIONS

Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department

AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Department of Agriculture
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department

BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FTZB Foreign-Trade Zones Board
ITA Industry and Trade Administration
MA Maritime Administration
MBEO Minority Business Enterprise Office
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department

AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DCPA Defense Civil Preparedness Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

DOE Energy Department

BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHADOE Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HEW Health, Education, and Welfare Department

ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Center for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
MSI Museum Services Institute
NIH National Institutes of Health
NIOSH National Institute of Occupational Safety and Health
OE Office of Education
PHS Public Health Service
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department

CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
FDAA Federal Disaster Assistance Administration
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department

BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
RB Reclamation Bureau
SMRE Surface Mining Reclamation and Enforcement Office

JUSTICE Justice Department

DEA Drug Enforcement Administration
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections

LABOR Labor Department

BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration
ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office

LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department

AID Agency for International Development
FSGB Foreign Service Grievance Board

DOT Transportation Department

CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLS Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department

ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies

AC Aging Federal Council
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPA Federal Preparedness Agency
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
IRLG Interagency Regulatory Liaison Group
ITC International Trade Commission
LSC Legal Services Corporation
MB Metric Board
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
TVA Tennessee Valley Authority
USIA United States Information Agency
VA Veterans Administration
WRC Water Resources Council

REMINDERS

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

Rules Going Into Effect Today

ENERGY DEPARTMENT

31570 5–31–79 / Weatherization assistance for low-income persons; amendment of regulations

Office of the Secretary—

31510 5–31–79 / Electric and hybrid vehicles research, development, demonstration, and production loan guarantees

ENVIRONMENTAL PROTECTION AGENCY

31514 5–31–79 / Polychlorinated biphenyls; manufacturing, processing, distribution in commerce, and use prohibitions

FEDERAL COMMUNICATIONS COMMISSION

31643 6–1–79 / Cable television pole attachments, complaints

36034 6–20–79 / Reregulation of radio and TV broadcasting

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner—

31175 5–31–79 / Low income housing, section 8 housing assistance payments program—existing housing; miscellaneous amendments

INTERIOR DEPARTMENT

Fish and Wildlife Service—

31578 5–31–79 / State cooperation agreements relating to endangered and threatened species of fish and wildlife or plants

TRANSPORTATION DEPARTMENT

Office of the Secretary

31442 5–31–79 / Nondiscrimination on the basis of handicap in federally assisted programs or activities; transportation needs of the handicapped

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing June 26, 1979