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Wednesday
July 18, 1979

Highlights

Cumulative List of Public Laws—The first cumulative list of public laws for the first session of the 96th Congress can be found in the reader aids section of this issue.

42060-42086 **Health Maintenance Organizations** HEW/PHS proposes the extent to which federally qualified organizations may affiliate, propose membership option in employees' health benefits plans, establish conditions for employees' contributions for membership, establish requirements for grants, loans and loan guarantees, and establishes organization and operation requirements; various effective dates and comment periods, (Parts I, II, III, and IV) (5 documents)

41841 **Medicare Program** HEW/HCFA proposes amending regulations on organization and functions of end-stage renal disease networks; comments by 9-17-79

42132 **Developmental Disability Assistance** HEW/HDSO announces availability of funds for Special Project Grant Program—Projects of National Significance in Developmental Disabilities; applications by 8-18-79 (Part VIII of this issue)

41832 **Certain Securities Brokers and Dealers** SEC proposes exempting municipal securities transactions from requirements of SECO program; comments by 8-31-79

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Highlights

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42126 **Securities Investment Advisers** SEC imposes requirements governing payments of cash referral fees; effective 9–30–79 (Part VII of this issue)

41827 **Federal Home Loan Bank System** FHLBB proposes waiver of penalties for liquidity deficiencies caused by withdrawals; comments by 9–17–79

41830 **Commodity Futures Trading** CFTC proposes rule establishing financial early warning system; comments by 9–17–79

41760 **Federal Credit Unions** NCUA adopts rules regarding insurance requirements and governing administrative actions, adjudicative hearings and practice and procedure; effective 6–11–79

42094 **Urban Wastes Demonstration Facilities** DOE proposes regulations implementing loan guarantee program; comments by 9–17–79; hearings on 8–9, 8–14 and 8–21–79 (Part V of this issue)

41854 **Conservative Dividend Policy** Commerce/MA proposes to change financial requirements which a vessel operator receiving operating-differential subsidy must specify; comments by 8–17–79

41783 **Pesticide Programs** EPA adopts rules regarding State issuance of and requirements for experimental use permits; effective 8–17–79

41955 **Export of Pesticides, Devices, and Active Ingredients** EPA proposes policy on labeling requirements and procedures for exporting unregistered products; comments by 9–17–79

41777 **Passports** State denies facilities to minors and cases involving criminal court order; effective 8–17–79

42114 **Educational Institutions** OMB offers opportunity to comment on revised audit followup policies; comments by 9–17–79 (Part VI of this issue)

41837 **Control of Air Pollution From Aircraft** EPA proposes exempting engines from Federal emission standards under certain circumstances; comments by 9–24–79; hearing on 8–22–79; requests to participate by 8–13–79

42025 **Sunshine Act Meetings**

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42060–42082 **Parts I–IV, HEW/PHS**
42094 **Part V, DOE**
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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1464

Price Support on 1979 Flue-Cured Tobacco Showing Evidence of Contamination by Picloram

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes a procedure by which producers of flue-cured tobacco that shows evidence of having been contaminated by the herbicide, picloram, may receive price support.

This action is being taken to protect the integrity of the tobacco price support program and to maintain stable economic conditions for marketing flue-cured tobacco throughout the 1979 marketing season.

EFFECTIVE DATE: July 13, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas A. VonGarlem, (202) 447-7954, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: The Department of Agriculture has received reports that producers on approximately 600 farms used fertilizer contaminated with the herbicide picloram on approximately 9,000 acres of flue-cured tobacco. The Department has no evidence that tobacco affected by the contaminated fertilizer poses a health problem. To protect the integrity of the tobacco price support program and to assure that economic conditions for marketing the 1979 crop of flue-cured tobacco remain stable, the Secretary of Agriculture is requiring, as conditions of price support, the following: (1) All unharvested tobacco that shows evidence of having been contaminated by picloram must be destroyed. (2) All tobacco previously harvested from plants that show evidence of having been contaminated by picloram must be delivered to the Flue-Cured Tobacco Cooperative Stabilization Corporation at designated locations and delivery dates to be announced later.

Final Rule

Accordingly, 7 CFR Part 1464 is amended by adding a new § 1464.11 as follows, effective only for the 1979 crop.

§ 1464.11 1979 Flue-Cured Tobacco Showing Evidence of Contamination by Picloram.

(a) This section shall apply only to the 1979 crop of flue-cured tobacco that shows evidence of having been contaminated by the herbicide, picloram, as determined by a representative of the county ASC committee. Such tobacco will be eligible for price support only if the conditions set forth in paragraph (a)(1) of this section are met:

(1) The farm operator certifies that: (i) All unharvested tobacco plants on the farm which show evidence of having been contaminated by the herbicide, picloram, as determined by a representative of the county ASC committee, have been destroyed. (ii) All tobacco plants previously harvested and cured or in the process of curing that show evidence of having been contaminated by picloram will be segregated from all other tobacco and delivered to the Flue-Cured Tobacco Cooperative Stabilization Corporation at designated locations and delivery points to be announced later.

(2) If the farm operator fails to certify to the conditions specified in paragraph (a)(1) of this section or fails to fulfill the conditions specified in the certification, all tobacco produced on the farm will be ineligible for price support and any marketing card issued for such farm will be marked "No Price Support."

(3) The destruction of all unharvested tobacco plants which show evidence of having been contaminated by the herbicide, picloram, must be witnessed by a representative of the county ASC committee, or, the farm operator must demonstrate to the satisfaction of a representative of the county ASC committee that such tobacco plants have already been destroyed.

(b) Tobacco already harvested and cured or in the process of curing that shows evidence of having been contaminated by picloram and has been delivered for price support in accordance with paragraph (a) of this section, shall be placed in a pool separate and apart from all other 1979 crop flue-cured tobacco. The profits or losses from the separate pool shall be totally independent of any other crop year pool established in accordance with this subpart.

Because the contamination of a portion of the 1979 crop threatens the marketability of the entire 1979 crop of flue-cured tobacco and since farmers are presently harvesting tobacco that shows evidence of contamination by picloram and need to know immediately the changes in the price support eligibility requirements for such tobacco, this rule shall become effective July 13, 1979.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective in less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant", and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Jerome F. Sitter, Director, Price Support and Loan Division, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

Note.—This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Dated: July 13, 1979.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 79-22217 Filed 7-13-79; 4:38 pm]

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FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; FC-0164]

Truth In Lending; Official staff Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretation.

SUMMARY: The Board is publishing the following official staff interpretation of Regulation Z, regarding the application of § 226.6(d) to § 226.7 (a) and (b) disclosures.

EFFECTIVE DATE: On or after August 17, 1979.

FOR FURTHER INFORMATION CONTACT: Gerald Kell, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3867).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2)(ii). As provided by 12 CFR Part 226.1(d)(3) every request for public comment must be in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be post marked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) Authority: 15 U.S.C. 1640(b).

§ 226.6(d) Application of § 226.6(d) to § 226.7 (a) and (b) disclosures. (Modifies Letter 597 and FC-0042)

§ 226.7(a) Application of § 226.6(d) to § 226.7 (a) and (b) disclosures. (Modifies Letter 597 and FC-0042)

§ 226.7(b) Application of § 226.6(d) to § 226.7 (a) and (b) disclosures. (Modifies Letter 597 and FC-0042)

June 28, 1979

This is in response to your letter of * * *, in which you request an official staff interpretation of § 226.6(d) of Regulation Z. Section 226.6(d) prescribes general Truth in Lending disclosure requirements and responsibilities when "there is more than one creditor * * * in a transaction." You are concerned with the application of § 226.6(d) to the disclosures required for open end credit plans by §§ 226.7 (a) and (b) of Regulation Z.

Your question arises in relation to open end credit card accounts for which both a card issuing bank and its agent bank are creditors under Regulation Z. You indicate that currently both the card issuing bank and the agent bank are identified as creditors on the initial disclosures provided to customers pursuant to § 226.7(a) and on the periodic statements required by § 226.7(b). You ask whether § 226.6(d) requires this identification.

Section 226.6(d) provides:

If there is more than one creditor or lessor in a transaction, *each creditor or lessor shall be clearly identified* and shall be responsible for making only those disclosures required by this Part which are within his knowledge and the purview of his relationship with the customer or lessee. If two or more creditors or lessors make a joint disclosure, *each creditor or lessor shall be clearly identified.* The disclosures required under paragraphs (b) and (c) of § 226.8 shall be made by the seller if he extends or arranges for the extension of credit. Otherwise disclosures shall be made as required under paragraphs (b) and (d) of § 226.8 or paragraph (b) of § 226.15. (Emphasis added.)

The staff is of the opinion that, although § 226.6(d) does not explicitly differentiate between open end credit and credit other than open end, not all of the requirements of that section apply to open end credit plans. For example, the requirements set forth in the last two sentences of § 226.6(d) specifying disclosures to be made under § 226.8 for credit transactions other than open end involving more than one creditor or under § 226.15 for consumer lease transactions involving more than one lessor clearly have no applicability in the case of open end credit. Additionally, the staff believes that since neither § 226.7(a) nor § 226.7(b) requires identification of the creditor of an open end plan in which there is only one creditor, § 226.6(d) does not require that each creditor be identified in connection with the § 226.7 (a) or (b) disclosures for open end plans in which there is more than one creditor.

Although in connection with the disclosures required by § 226.7(a) and (b) there need be no identification of the creditors of an open end account in which there is more than one creditor, each such creditor is responsible under § 226.6(d) for making all required disclosures which are within the knowledge of that creditor and the purview of its relationship with a customer. Such creditors may of course, make joint disclosures. Furthermore, one or more of the creditors of an open end account may be identified in connection with the disclosures required by § 226.7(a) and/or § 226.7(b) as additional information in accordance with § 226.6(c) of Regulation Z.

Public Information Letter 597 indicates, and Official Staff Interpretation FC-0042 could be read to imply, that § 226.6(d) requires identification of each creditor of an open end credit plan in which there is more than one creditor. Upon reconsideration, however, the staff believes that the opinions expressed in this letter constitute the correct interpretation of the requirements of the regulation. Therefore, Public Information Letter 597 and Official Staff Interpretation FC-0042 are hereby modified to coincide with the views expressed herein.

In accordance with your request, this is an official staff interpretation of Regulation Z, issued pursuant to § 226.1(d)(2) of the regulation and limited to the facts and issues discussed above. It will become effective 30 days after publication in the **Federal Register** unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended because such a request is received.

Sincerely,

Nathaniel E. Butler,

Associate Director.

Board of Governors of the Federal Reserve System, July 3, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22155 Filed 7-17-79; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 715, 741, and 747

Suspension or Revocation of Charter, Involuntary Liquidation; Requirements for Insurance and Rules of Practice and Procedure

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: In order to incorporate changes in its supervisory and adjudicatory authority made by Titles I and XVIII of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (hereinafter FIRA), and in order to simplify and centralize its rules and regulations dealing with administrative adjudicatory actions and proceedings, the National Credit Union Administration has deleted Part 715, "Suspension or Revocation of Charter, Involuntary Liquidation," (12 CFR Part 715) from its rules and regulations, and incorporated that Part, as well as changes made by FIRA in sections 206 and 304(c) of the Federal Credit Union Act (12 U.S.C. 1786 and 1795(c)) into Part 747 of its rules and regulations (12 CFR Part 747). Part 747 has been retitled "Administrative Actions, Rules of Practice and Procedure," and in its several subparts, describes all of the various administrative adjudicatory actions available to the National Credit

Union Administration Board (hereinafter Board), the grounds for those actions, and the hearing procedure for each.

EFFECTIVE DATE: June 11, 1979.

FOR FURTHER INFORMATION CONTACT: Jay C. Keithley, Office of the General Counsel, National Credit Union Administration, Washington, D.C. 20456. Telephone (202)632–4870.

SUPPLEMENTARY INFORMATION: The regulation formerly contained in 12 CFR Part 715 set out grounds for, and rules of practice and procedure for proceedings leading to, the suspension or revocation of the charter of a Federal credit union, i.e., a credit union chartered under Subchapter I of the Federal Credit Union Act (12 U.S.C. 1751–1775), and the closing and placing of such a credit union into involuntary liquidation. The former Part 747 set out grounds for, and rules of practice and procedure for any one of several administrative actions available under section 206 of the Federal Credit Union Act (12 U.S.C. 1786) against any credit union insured under Subchapter II of that Act (12 U.S.C. 1781–1790). In many instances, the rules of practice and procedure in these two Parts were repetitive.

With the enactment of FIRA, substantial changes were made in the Board's authority under section 206 and additional adjudicatory authority was granted in section 304(c) of the Federal Credit Union Act. The Administration is using this opportunity, occasioned by FIRA's passage, to not only appropriately amend Part 747, but also to remove whatever redundancies existed between Parts 747 and 715, by combining all of its adjudicatory regulations into one part, Part 747.

Part 747 now contains eight subparts. Subpart A sets out rules of practice and procedure applicable to all formal hearings, i.e., those hearings that must be of record and comply with Chapter 5 of the Administrative Procedures Act. No substantive change has been made from the former Subpart A. To reflect the Administration's restructuring under Title V of FIRA, the designation "Board" replaces "Administrator," as required.

Subpart B, "Rules and Procedures Applicable to Involuntary Termination of Insured Status," is substantively unchanged from the former Subpart B. In order to clarify that a credit union's voluntary termination of its insured status is not an adjudicatory proceeding, all reference to section 206(a) of the Federal Credit Union Act has been removed from Subpart B. Further, the former Subpart B contained a notice of termination of insured status required to be published whether termination was voluntary or the result of an administrative action. The notice contained in the new Subpart B applies only to involuntary termination; the notice for voluntary termination of insured status is now contained in Part 741 (12 CFR Part 741) with the addition of § 741.6.

Subpart C, "Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Orders," has been amended to reflect changes made to sections 206(e) and (f) of the Act. Sections 107(a)(4) and (b)(4) of FIRA expanded the scope of NCUA's cease-and-desist authority so as to now include any director, officer, committee member, employee, agent or other person participating in the conduct of the affairs of a fedrally insured credit union. Section 107(b)(4) of FIRA also granted the Board additional authority to take immediate, temporary cease-and-desist action under section 206(f) of the Act. In addition to those occasions previously set out in section 206(f), and described in the former Subpart C, such action is now authorized when the errant or illegal practice "is likely to seriously weaken the condition of the credit union." Also, section 107(b)(4), clarifies that when the harm contemplated in section 206(f) will occur "prior to completion of proceedings pursuant to [section 206(e)]," immediate cease-and-desist action can be taken. The subpart is otherwise substantively identical to the former Subpart C.

Subpart D, "Rules and Procedures Applicable to Proceedings Relating to Assessment and Collection of Civil Money Penalties," is new. It is the result of FIRA's addition of section 206(j)(2) to the Federal Credit Union Act. Under section 206(j)(2), the Board may, by written notice, asess against any insured credit union, director, officer, committee member, employee, agent or other person participating in the conduct of the affairs of such a credit union, civil money penalties for the violation of cease-and-desist orders that have become final. Individuals or entities so assessed are given ten days from service of a Notice of Assessment to request a formal hearing in which they may challenge the assessment in terms of the existence of the requisite violation and the relative propriety of the amount of the assessment. If such a hearing is requested, a formal adjudicatory hearing, such as described in Subpart A, must be had. Subpart D sets out the relevant considerations and procedures used in the assessment of civil money penalties, as required by section 206(j)(2).

Subpart E, "Rules and Procedures Applicable to section 206(g) Suspension and Removals," is substantially identical to the former Subpart D, "Rules and Procedures Relating to Suspensions and Removals," except that former section 747.44, "Suspension and Removal Where Felony Involved" has been removed in response to FIRA's amendments to section 206(h) of the Act. These changes will be discussed later.

The former Subpart E, "Judicial Review, Penalty, Definitions," has been removed and incorporated where appropriate throughout the new Part 747. Judicial Review of the Administration's adjudicatory actions is available under sections 206(i) and 209(a)(2) of the Federal Credit Union Act (12 U.S.C. 1786(c) and 1789(a)(2)), as well as under the Administrative Procedure Act (5 U.S.C. 500 *et seq.*) (hereafter APA). Likewise, judicial enforcement is available to the Administration under sections 206(j)(1) and 209(a)(2) of the Federal Credit Union Act.

Subpart F, "Rules and Procedures Applicable to Proceedings Relating to Suspension and Removal where Felony Charged," is substantially different from its predecessor, former § 747.44. This is the result if FIRA's changes to section 206(h) of the FCU Act. Prior to FIRA, when a director, officer, committee member or other person participating in the affairs of an insured credit union was indicted or otherwise charged with a felony involving dishonesty or breach of fiduciary duty, he could be suspended or removed from his position simply because he was so charged, with no statutory right to a hearing or to any review of his removal. There is now a right to an informal hearing. The board can suspend or remove under these circumstances where it is satisfied that "continued service or participation [of the charged individual] may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union." If this determination is made, the Board may act by issuing a notice of suspension or removal. However, the Board must advise the subject that within 30 days of service of such notice, he may request an informal, intra-agency hearing, at which he can challenge the Board's action. Should the subject request such a hearing, it would be held before the Board or its designee. Any such designee would not be an Administrative Law Judge, and the requirements of Chapter 5 of the APA need not be met. Subpart F reflects FIRA's changes and sets out the

procedures relating to section 206(h) actions.

Subpart G, "Rules and Procedures Applicable to Proceedings Relating to Suspension or Revocation of Charters and to Involuntary Liquidations," is substantially identical to former Part 715, except that the repetitive procedural provisions, the former §§ 715.5–715.23, have been removed. Additionally, § 747.702 has been modified to more accurately reflect the Board's obligation under section 207(a) of the Act to close any Federally insured credit union upon its finding that the credit union is insolvent.

Subpart H, "Rules and Procedures Applicable to Proceedings Relating to Termination of Membership in the Central Liquidity Facility," has been reserved in response to FIRA's creation of the Central Liquidity Facility within the Administration and its granting of membership termination authority in the Board. At present, rules and regulations pertaining to the rights, obligations, and responsibilities of Central Liquidity Facility membership are being prepared. At such time as these regulations are finally adopted, Subpart H will be completed. As is currently envisioned, the formal hearing procedures set out in Subpart A will apply to section 304 termination hearings. However, this determination is not a final one, and it will be reconsidered as progress on Subpart H develops.

Since new Part 747 merely restructures the Administration's adjudicatory procedural regulations, and due to the fact that any substantive changes made are necessitated by, and conform the regulations to, the provisions of FIRA's amendments to the Federal Credit Union Act, the Board finds the procedures prescribed by the provisions of 5 U.S.C. 553 are unnecessary.

In addition, the procedures contained in the Administration's report implementing Executive Order No. 12044: Improving Government Regulations, have not been followed because the regulations are prepared in response to statutory amendments and the process is unnecessary and contrary to the public interest. This determination was made by James J. Engel, Assistant General Counsel, Office of the General Counsel.

Accordingly, as set forth below, the Board hereby (1) deletes part 715 from its rules and regulations, (2) retitles Part 741 and adds § 741.6, thereto, and (3) revises Part 747.

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766); Sec. 206, 92 Stat. 3652, 3656, 3659, 3663, 3670, 3671, and 3681 (12 U.S.C. 1786); Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789) and Sec. 304, 92 Stat. 3720 (12 U.S.C. 1795(c)))

Lawrence Connell,

Administrator.

July 13, 1979.

PART 715 [RESERVED]

1. Part 715, Suspension or Revocation of Charter, Involuntary Liquidation, is deleted in its entirety and reserved for future use.

PART 741—REQUIREMENTS FOR INSURANCE AND VOLUNTARY TERMINATION OF INSURANCE

2. Part 741 is amended: (a) By adding "and Voluntary Termination of Insurance" to the title thereof; and

(b) By adding a new § 741.6 to read as follows:

§ 741.6 Notice of voluntary termination of insured status.

In the event of the termination of a credit union's status as an insured credit union as provided under subsection 206 (a) of the Act, the credit union shall give prompt notice to all of its members whose accounts are insured that it has ceased to be an insured credit union. The notice, which shall be mailed to each mamber's last address of record on the books of the credit union, shall be as follows:

Notice

(Date) ———

1. The status of the ———— as an insured credit union under the provisions of the Federal Credit Union Act, will terminate as of the close of business on the ——— day of ———, ——.

2. Any deposits made by you after that date, either new deposits or additions to existing accounts, will not be insured by the National Credit Union Administration.

3. Accounts in the credit union on the —— day of ———, ——, up to a maximum of $40,000 for each member, will continue to be insured, as provided by the Federal Credit Union Act, for one (1) year after the close of business on the — day of ———, ——; Provided, however, that any withdrawals after the close of business on the —— day of ———, ——, will reduce the insurance coverage by the amount of such withdrawals.

(Name of Credit Union) ————

(Address) ————

3. Part 747 is amended to read as follows:

PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, AND RULES OF PRACTICE AND PROCEDURE

Sec.

747.01 Scope.

Subpart A—Rules of Practice and Procedure

747.101 Scope.
747.102 Appearance and practice before the Administration.
745.103 Notice of hearing.
747.104 Answer.
747.105 Failure to appear.
747.106 Conduct of hearings.
747.107 Subpenas.
747.108 Rules of evidence.
747.109 Motions.
747.110 Proposed findings and conclusions and recommended decision.
747.111 Exceptions.
747.112 Briefs.
747.113 Oral argument before the Board.
747.114 Notice of submission to the Board.
747.115 Decision of the Board.
747.116 Filing papers.
747.117 Service.
747.118 Copies.
747.119 Computing time.
747.120 Documents in proceedings confidential.
747.121 Formal requirements as to papers filed.

Subpart B—Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

747.201 Scope.
747.202 Grounds for termination of insurance.
747.203 Notice of charges.
747.204 Notice of intention to terminate insured status.
747.205 Order terminating insured status.
747.206 Consent to termination of insured status.
747.207 Notice of termination of insured status.
747.208 Duties after termination.

Subpart C—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Actions

747.301 Scope.
747.302 Grounds for cease-and-desist orders.
747.303 Notice of charges and hearing.
747.304 Issuance of order.
747.305 Effective date.
747.306 Temporary cease-and-desist orders.

Subpart D—Rules and Procedures Applicable to Proceedings Relating to Assessment and Collection of Civil Penalties

747.401 Scope.
747.402 Grounds for assessment of civil money penalties.
747.403 Relevant considerations.
747.404 Notice of assessment.
747.405 Period within which penalty is payable.
747.406 Notice of opportunity for hearing.
747.407 Request for hearing.
747.408 Hearing and order.

Subpart E—Rules and Procedures Applicable to Proceedings Relating to 206(g) Suspension and Removal Actions

747.501 Scope.
747.502 Grounds for removal order.

Sec.

747.503 Notice of intent to remove and hearing.
747.504 Issuance of removal order and effective date.
747.505 Suspension actions.
747.506 Remainder of the board of directors.

Subpart F—Rules and Procedures Applicable to Suspensions and Prohibitions Where Felony Charged

747.601 Scope.
747.602 Rules of practice.
747.603 Notice of suspension or prohibition.
747.604 Removal or permanent prohibition.
747.605 Effectiveness of suspension or removal until completion of hearing.
747.606 Notice of hearing.
747.607 Hearing.
747.608 Waiver of hearing; failure to request hearing or review based on written submissions; failure to appear.
747.609 Decision of the Board.
747.610 Reconsideration by the Board of Directors.
747.611 Relevant considerations.

Subpart G—Rules and Procedures Applicable to Proceedings Relating to the Suspension or Revocation of Charters and to Involuntary Liquidations

747.701 Scope.
747.702 Grounds for suspension or revocation of charter and for involuntary liquidation.
747.703 Notice of intent to suspend or revoke charter; notice of suspension.
747.704 Notice of hearing.
747.705 Issuance of order.
747.706 Cancellation of charter.

Subpart H—Rules and Procedures Applicable to Proceedings Relating to the Termination of Membership in the Central Liquidity Facility [Reserved]

Authority: Sec. 120, 73 stat. 635 (12 U.S.C. 1766); Sec. 206, 92 stat. 3652, 3656, 3659, 3663, 3670, 3671, and 3681 (12 U.S.C. 1786); Sec. 209, 84 stat. 1104 (12 U.S.C. 1789) and Sec. 304, 92 stat. 3720 (12 U.S.C. 1795(c)).

PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, AND RULES OF PRACTICE AND PROCEDURE

§ 747.01 Scope.

(a) This Part describes the various administrative adjudicative actions available to the National Credit Union Administration Board, the grounds for those actions and the procedures used in hearings related to each available action. The Administrative actions described herein, as well as the grounds and hearing procedures for each, are controlled by sections 120(b), 206, 207(a) and 304(c)(3) of the Federal Credit Union Act. Should any provision of this Part be inconsistent with these, or any other provisions of said Act, as amended, the Act shall control. Judicial enforcement of any action or order described in this Part, as well as judicial review thereof shall be as prescribed under the Federal Credit Union Act (12 U.S.C. § 1751 *et seq.*) (hereinafter Act) and the Administrative Procedure Act (5 U.S.C. § 500 *et seq.*).

(b) As used in this Part, the term insured credit union means any Federal credit union or any state chartered credit union insured under Subchapter II of the Act unless the context indicates otherwise.

Subpart A—Rules of Practice and Procedure

§ 747.101 Scope.

(a) This subpart prescribes the rules of practice and procedure applicable to the following hearings:

(1) Those held pursuant to section 206(b) of the Act, pertaining to the involuntary termination of the insured status of an insured credit union (Subpart B);

(2) Those held pursuant to sections 206 (e) and (f) of the Act, pertaining to the issuance of cease-and-desist orders against any insured credit union, or any director, officer, committee member, employee, agent or any other person participating in the conduct of the affairs of any insured credit union (Subpart C);

(3) Those held pursuant to section 206(j)(2) of the Act, pertaining to the assessment of civil penalties against any insured credit union, or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of any insured credit union, for the violation of a cease-and-desist order that has become final (Subpart D);

(4) Those held pursuant to section 206(g) of the Act, pertaining to the issuance of orders removing or suspending from office and/or prohibiting from further participation in the credit union's affairs, any director, officer, or committee member of an insured credit union, or any person participating in the conduct of the affairs of such a credit union (Subpart E);

(5) Those held pursuant to sections 120(b) and 207(a) of the Act, pertaining to the suspension or revocation of the charter of any Federal credit union, and the placing of such a credit union into involuntary liquidation (Subpart G); and

(6) Those held pursuant to section 304(e)(3) of the Act, pertaining to the termination of membership in the Central Liquidity Facility, established under Subchapter III of the Act (Subchapter H).

(b) Except as provided in § 747.602 of this Part, the provisions of this subpart do not apply to hearings held pursuant to § 206(h) of the Act, pertaining to suspension, removal or prohibition action against a person charged with the commission or a crime involving dishonesty or breach of trust as more fully described in Subpart F.

(c) In connection with any proceeding involving an insured State-chartered credit union, or any director, officer, committee member, or other person participating in the conduct of its affairs, the Board will provide the appropriate State supervisory authority with timely notice of its intent to institute the proceeding and the grounds therefor. Unless within such time as the Board deems appropriate in the light of the circumstances of the case (which time will be specified in the notice) satisfactory corrective action is effectuated by action of the State supervisory authority, the Board will proceed as provided herein. No credit union or other party who is the subject of any notice or order issued by the Board under this Part shall have standing to raise the requirements of this subsection as ground for attacking the validity of any such notice or order.

§ 747.102 Appearance and practice before the Administration.

(a) *Power of attorney and notice of appearance.* Any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia may represent others before the Administration upon filing with the Board a written declaration that he is currently qualified as provided by this paragraph, and is authorized to represent the particular party on whose behalf he acts. Any other person desiring to appear before or transact business with the Administration in a representative capacity may be required to file with the Board a power of attorney showing his authority to act in such capacity, and he may be required to show to the satisfaction of the Board that he has the requisite qualifications. Attorneys and representatives of parties to proceedings shall file a written notice of appearance with the Board or with the Administrative Law Judge designated by the Board.

(b) *Summary suspension.* Contemptuous conduct by any person at an argument before the Board or at the hearing before an Administrative Law Judge shall be ground for exclusion therefrom and suspension for the duration of the argument or hearing.

§ 747.103 Notice of hearing.

Whenever a hearing within the scope of this subpart is ordered by the Board, a notice of hearing shall be given by the Board to the party afforded the hearing and to any appropriate State supervisory authority. The notice shall state the time, place, and nature of the hearing and the legal authority and jurisdiction under which the hearing is to be held, and shall contain a statement of the matters of fact or law constituting the grounds for the hearing. It shall be delivered by personal service, by registered or certified mail to the last known address, or by other appropriate means, not later than thirty (30), nor earlier than sixty (60) days before the hearing. The term "party" means a person or agency named or admitted as a party, or any person or agency who has filed a written request and is entitled as of right to be admitted as a party; but a person or agency may be admitted for a limited purpose.

§ 747.104 Answer.

(a) *When required.* In any notice of hearing issued by the Board, the Board may direct the party or parties afforded the hearing to file an answer to the allegations contained in the notice, and any party to any proceeding may file an answer. Except where a different period of not less than 10 days after service of a notice of hearing is specified by the Board, a party directed to file an answer, or a party who elects to file an answer, shall file the same with the Board within 20 days after service upon him of the notice of hearing.

(b) *Requirements of answer; effect of failure to deny.* An answer filed under this section shall specifically admit, deny, or state that the party does not have sufficient information to admit or deny each allegation in the notice of hearing. A statement of lack of information shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a party intends to deny only a part or a qualification of an allegation, he shall specify so much of it as is true and shall deny only the remainder.

(c) *Admitted allegation.* If a party filing an answer under this section elects not to contest any of the allegations of fact set forth in the notice of hearing, his answer shall consist of a statement that he admits all of the allegations to be true. Such an answer shall constitute a waiver of hearing as to the facts alleged in the notice, and together with the notice will provide a record upon which the Board may issue an appropriate order.

(d) *Effect of failure to answer.* Failure of a party to file an answer required by this section within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the notice of hearing and to authorize the Board to find the facts as alleged in the notice and issue an appropriation order. The Board or the Administrative Law Judge may, for cause shown, permit the filing of a delayed answer after the time for filing the answer has expired.

(e) *Opportunity for informal settlement.* Any interested party may at any time submit to the Board, for consideration, written offers or proposals for settlement of a proceeding, without prejudice to the rights of the parties. No such offer or proposal, or counter-offer or proposal shall be admissible in evidence over the objection of any party in any hearing in connection with such proceeding. The foregoing provisions of this section shall not preclude settlement of any proceeding through the regular adjudiciary process by the filing of an answer as provided in this section, or by submission of the case to the Administrative Law Judge on a stipulation of facts and an agreed order.

§ 747.105 Failure to appear.

Failure of a party to appear at the hearing by a duly authorized representative shall be deemed to be an admission to the facts as alleged and consent to the relief sought.

§ 747.106 Conduct of hearings.

(a) *Selection of Administrative Law Judge.* Any hearing within the scope of this subpart shall be held before the Board or an Administrative Law Judge selected by the Office of Administrative Law Judges, Office of Personnel Management and designated by the Board and, unless otherwise provided in the notice of hearing, shall be conducted as hereinafter provided.

(b) *Authority of Administrative Law Judge.* All hearings governed by this subpart shall be conducted in accordance with the provisions of chapter 5 of Title 5 of the United States Code. The Administrative Law Judge designated by the Board to preside at any such hearing shall have complete charge of the hearing, and he shall have the duty of conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings. Except that he shall not have the authority to decide any motion to dismiss or any other motion which results in a final determination on the merits, the Administrative Law Judge shall have all the powers conferred by section 556(c) of Title 5 of the United States Code, including, but not limited to the following:

(1) To administer oaths and affirmations;

(2) To issue subpenas and subpenas duces tecum, as authorized by law, and to revoke, quash, or modify any such subpena;

(3) To receive relevant evidence and to rule upon the admission of evidence and offers of proof;

(4) To take or cause depositions to be taken;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel;

(6) To hold conferences for the settlement or simplification of issues or for any other proper purpose; and

(7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adversary proceeding.

(c) *Prehearing conference.* The Administrative Law Judge may, on his own initiative or at the request of any party, direct counsel for all parties to meet with him at a specified time and place prior to the hearing, or to submit suggestions to him in writing, for the purpose of considering any or all of the following:

(1) Simplification and clarification of the issues;

(2) Stipulations, admissions of fact and of the contents, and authenticity of documents;

(3) Matters of which official notice will be taken; and

(4) Such other matters as may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

Such conferences shall, at the request of any party, be recorded and at the conclusion thereof the Administrative Law Judge shall enter in the record an order which recites the results of the conference. The order shall include the Administrative Law Judge's rulings upon matters considered at the conference, together with appropriate directions to the parties, if any; and such order shall control the subsequent course of the proceedings, unless modified at the hearing to prevent manifest injustice. Except as authorized by law, the Administrative Law Judge shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.

No officer, employee or agent engaged in the performance of investigative or prosecuting functions in any case shall, in that case or a factually related case, participate or advise in the decision of the Administrative Law Judge except as a witness or counsel in the proceedings.

(d) *Attendance at hearings.* A hearing shall ordinarily be private and shall be attended only by the parties, their representatives or counsel, witnesses while testifying, and other persons having an official interest in the proceedings: Provided, however, that on written request by a party or representatives of the Board or on the Board's own motion, the Board, in its discretion and to the extent permitted by law, may permit other persons to attend or may order the hearing to be public.

(e) *Transcript of testimony.* Hearings shall be recorded and transcripts will be available to any party upon payment of the cost thereof, and, in the event the hearing is public, shall be furnished on similar payment to the other interested persons. A copy of the transcript of the testimony taken at any hearing, duly certified by the reporter, together with all exhibits, all papers and requests filed in the proceedings, and any briefs or memoranda of law theretofore filed in the proceeding, shall be filed with the Board, who shall transmit the same to the Administrative Law Judge. The Board shall promptly serve notice upon each of the parties of such filing and transmittal. The Administrative Law Judge shall have authority to rule upon motions to correct the record.

(f) *Order of procedure.* At the time for opening arguments, counsel for the Administration shall argue first, and at the time for closing arguments, counsel for the Administration shall argue last.

(g) *Continuances and changes or extension of time and changes of place of hearing.* Except as otherwise expressly provided by law, the Board may, by the notice of hearing or subsequent order, provide time limits different from those specified in this part, and the Board may, on its own initiative or for good cause shown, change or extend any time limit prescribed by these rules, or with the consent of the party afforded the hearing, change the time and place for beginning any hearing hereunder. The Administrative Law Judge may continue or adjourn a hearing from time to time and, as permitted by law or agreed to by parties, from place to place. Extensions of time for making any filing or performing any act required or allowed to be done within a specified time in the course of a proceeding may be granted by the Administrative Law Judge for good cause shown.

(h) *Call for further evidence, oral argument, briefs, reopening of hearing.* The Administrative Law Judge may call for the production of further evidence upon any issue, may permit oral argument and submission of briefs at the hearing and, upon appropriate notice, may reopen any hearing at any time prior to the certification of his recommended decision to the Board. Except as otherwise provided in § 747.705(b), the Board shall render its decision within 90 days after the parties have been notified pursuant to § 747.114 that the case has been submitted to the Board for final decision, unless within such 90-day period the Board, on its own initiative or for good cause shown, orders that such notice be set aside and the case reopened for further proceedings.

§ 747.107 Subpenas.

(a) *Issuance.* The Administrative Law Judge, or in the event he is unavailable, the Board shall issue subpenas at the request of any party requiring the attendance of witnesses or the production of documentary evidence at any designated place of hearing; except that where it appears to the Administrative Law Judge or the Board that the subpena may be unreasonable, oppressive, excessive in scope, or unduly burdensome, the party seeking the subpena may be required, as a condition precedent to the issuance of the subpena, to show general relevance and reasonable scope of the testimony or other evidence sought. In the event the Administrative Law Judge or the Board, after consideration of all the circumstances, determines that the subpena or any of its terms are unreasonable, oppressive, excessive in scope, or unduly burdensome, either may refuse to issue the subpena, or issue it only upon such conditions as fairness requires.

(b) *Motion to quash.* Any person to whom a subpena is directed may, prior to the time specified therein for compliance but in no event more than 5 days after the date of service of such subpena, with notice to the party requesting the subpena, apply to the Administrative Law Judge, or if he is unavailable, to the Board, to revoke, quash, or modify such subpena, accompanying such application with a statement of the reasons therefor.

(c) *Service of subpena.* Service of a subpena upon a person named therein shall be made by delivering a copy of the subpena to such person and by tendering the fees for 1 day's attendance and the mileage as specified in paragraph (d) of this section, except that when a subpena is issued at the instance of the Board, fees and mileage need not be tendered at the time of service of the subpena. If service is made by a U.S. marshal, or his deputy, or an employee of the Administration, such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereto, describing the manner in which service is made, and return such affidavit on or with the original subpena. In case of failure to make service, reasons for the failure shall be stated on the original subpena. The original subpena, bearing or accompanied by the required return, affidavit or statement, shall be returned without delay to the issuing authority.

(d) *Attendance of witnesses.* The attendance of witnesses and the production of documents pursuant to a subpena, issued in connection with a hearing provided for in this subpart, may be required from any State or in any territory at any designated place where the hearing is being conducted. Witnesses subpenaed in any proceeding under this subpart shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

(e) *Depositions.* The Board or Administrative Law Judge, by subpena or subpena duces tecum, may order evidence to be taken by deposition in any proceeding at any stage thereof. Such depositions may be taken by the Administrative Law Judge or before any person designated by the Board or Administrative Law Judge and having power to administer oaths. Unless notice is waived, no deposition shall be taken except after at least 5 days' notice to the parties to the proceeding.

(f) *Application and order to take oral deposition.* Any party desiring to take the oral deposition of a witness, in connection with any hearing provided for in this part, shall make application in writing to the Administrative Law Judge or, in the event he is unavailable, to the Board, setting forth the reasons why such depositions should be taken, the name and address of the witness, the matters concerning which the witness is expected to testify, its relevance and the name and address of the person before whom it is desired the deposition to be taken. A copy of such application shall be served upon every other party to the proceeding by the party making such application. Upon showing that (1) the proposed witness will be unable to attend or may be prevented from attending the hearing because of age,

sickness, or infirmity, or will otherwise by unavailable at the hearing, (2) his testimony will be material, and (3) the taking of the deposition will not result in any undue burden to any other party or in undue delay of the proceeding, the Administrative Law Judge or the Board may, in his or its discretion, by such subpena or subpena duces tecum, order the oral deposition to be taken. Such subpena will name the witness whose deposition is to be taken and specify the time when, the place where and the person before whom the witness is to testify, but such time and place, and the person before whom the deposition is ordered to be taken, need not be the same as those named in the application. Notice of the issuance of such subpena shall be served upon each of the parties a reasonable time, and in no event less than 5 days, in advance of the time fixed for the taking of the deposition.

(g) *Procedure on deposition; objections.* Each witness testifying upon oral deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. Objections to questions or evidence shall be in short form, stating the grounds of objecton relied upon; but the person taking the deposition shall not have the power to rule upon questions of competency or materiality or relevance of evidence. Failure to object to questions or evidence shall not be deemed a waiver except where the ground of the objection is one which might have been obviated or removed if presented at that time. The questions propounded and the answers thereto, together with all objections made (but not including argument) shall be recorded by the person taking the deposition, or under his direction. The deposition shall be subscribed by the witness, unless the parties by stipulation waived the signing or the witness is ill or cannot be found or refuses to sign, and certified as a true and complete transcipt thereof by the person taking the deposition. If the deposition is not subscribed to by the witness, the person taking the deposition shall state this fact on the record and the reason therefor. Such person shall promptly send the original and two copies of such deposition, together with the original and two copies of all exhibits, by registered mail to the Board unless otherwise directed in the order authorizing the taking of the deposition. Interested parties shall make their own arrangements with the person taking the deposition for copies of the testimony and the exhibits.

(h) *Introduction as evidence.* Subject to appropriate rulings on such objections to questions of evidence as were noted at the time the deposition was taken or as would be valid were the witness personally present and testifying (except objections waived under paragraph (g) of this section), the deposition or any part thereof may be read in evidence by any party to the proceeding. Only such part or the whole of a deposition as is received in evidence shall constitute a part of the record of the proceeding upon which a decision may be based.

(i) *Payment of fees.* Witnesses whose oral depositions are taken shall be entitled to the same fees as are paid for like services in the district courts of the United States. Fees of persons taking such depositions and the fees of the reporter shall be paid by the person upon whose application the deposition was taken.

(j) *Judicial enforcement.* Any party to proceedings under this Part may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States Court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena or subpena duces tecum issued pursuant to this subpart, and such courts shall have jurisdiction and power to order and require compliance therewith.

§ 747.108 Rules of evidence.

(a) *Evidence.* Every party shall have the right to present his case or defense by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(b) *Objections.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds relied upon, and the transcript shall not include argument thereon except as ordered, allowed, or requested by the Administrative Law Judge. Rulings on objections and on any other matters shall be a part of the transcript. Failure to object to admission or exclusion of evidence or to any ruling shall be considered a waiver of such objection.

(c) *Official Notice.* All matters officially noticed by the Administrative Law Judge shall appear on the record.

§ 747.109 Motions.

(a) *In writing.* An application or request for an order or ruling not otherwise specifically provided for in this subpart shall be made by motion. After an Administrative Law Judge has been designated and before the filing with the Board of his recommended decision, such motions shall be addressed to and filed with the Administrative Law Judge. At all other times motions shall be addressed to and filed with the Board. Motions shall be in writing, except that a motion made at a session of a hearing may be made orally upon the record unless the Administrative Law Judge directs that it be reduced to writing. All written motions shall state with particularity the order or relief sought and the grounds therefor.

(b) *Objections.* Within 5 days after service of any written motion, or within such other period as may be fixed by the Administrative Law Judge or the Board, any party may file a written answer or objection to such motion. The moving party shall have no right to reply, except as permitted by the Administrative Law Judge or the Board. As a matter of discretion, the Administrative Law Judge, or the Board may waive the requirements of this section as to motions for extensions of time, and may rule upon such motions ex parte.

(c) *Oral argument.* No oral argument will be heard on motions except as otherwise directed by the Administrative Law Judge or the Board. Written memoranda or briefs may be filed with motions or answers or objections thereto, stating the points and authorities relied upon in support of the position taken.

(d) *Rulings on motions.* Except as otherwise provided in this part, the Administrative Law Judge shall rule upon all motions properly addressed to him (and upon such other motions as the Board directs) except that if the Administrative Law Judge finds that a prompt decision by the Board on a motion is essential to the proper conduct of the proceeding, he may refer that motion to the Board for decision. The Board shall rule upon all motions properly submitted to it for decision.

(e) *Appeal from rulings on motions.* All motions and answers or objections thereto and rulings thereon shall become a part of the record. Rulings of an Administrative Law Judge on any motion may not be appealed to the Board prior to his consideration of the Administrative Law Judge's recommended decision, findings, and conclusions except by special permission of the Board; but they shall be considered by the Board in reviewing the record. Requests to the Board for special permission to appeal from such rulings of the Administrative Law Judge shall be filed promptly, in writing, and shall briefly state the grounds relied upon. The moving party shall

immediately serve a copy thereof on every other party to the proceeding.

(f) *Continuation of hearing.* Unless otherwise ordered by the Administrative Law Judge or the Board, the hearing shall be continued pending the determination of any motion by the Board.

§ 747.110 Proposed findings and conclusions and recommended decision.

(a) *Proposed findings and conclusions by parties.* Each party to a hearing shall have a period of 15 days after service of the Board's notice of the filing and transmittal of the record as provided in § 747.106(e), or such further time as the Administrative Law Judge for good cause shall determine, to file with the Administrative Law Judge proposed findings of fact, conclusions of law, and orders which may be accompanied by a brief or memorandum in support thereof. Such proposals shall be supported by citation of those statutes, decisions, and other authorities which may be relevant and by page references to appropriate parts of the record. All such proposals, briefs, and memoranda shall become a part of the record.

(b) *Recommended decision and filing of record.* The Administrative Law Judge shall, within 30 days after the expiration of the time allowed for the filing of proposed findings, conclusions, and order, or within such further time as the Board for good cause shall determine, file with and certify to the Board for decision the entire record of the hearing which shall include his recommended decision, findings of fact, conclusions of law, and proposed order, the transcript, exhibits (including on request of any of the parties any exhibits excluded from evidence or tenders of proof), exceptions, rulings, and all briefs and memoranda filed in connection with the hearing. Promptly upon such filing the Board shall serve upon each party to the proceeding a copy of the Administrative Law Judge's recommended decision, findings, conclusion and proposed order. The provisions of this paragraph and § 747.111 shall not apply, however, in any case where the hearing was held before the Board.

§ 747.111 Exceptions.

(a) *Filing.* Within 15 days after service of the recommended decision, findings, conclusions, and proposed order of the Administrative Law Judge, or such further time as the Board for good cause shall determine, any party (other than a party who has not filed an answer in accordance with paragraphs (a) and (d) of § 747.104, unless no answer was required of such party by the Board) may file with the Board, exceptions thereto or any part thereof, or to the failure of the Administrative Law Judge to make any recommendation, finding or conclusion, or to the admission or exclusion of evidence, or other ruling of the Administrative Law Judge, supported by such brief as may appear advisable.

(b) *Waiver.* Failure of a party to file exceptions to the recommended decision, findings, conclusions, and proposed order of the Administrative Law Judge or any portion thereof, or to his failure to adopt a proposed finding or conclusion, or to the admission or exclusion of evidence or other ruling of the Administrative Law Judge, within the time prescribed in paragraph (a) of this section, shall be deemed a waiver of objection thereto.

§ 747.112 Briefs.

(a) *Contents.* All briefs shall be confined to the particular matters in issue. Each exception or proposed finding or conclusion which is briefed shall be supported by a concise argument or by citation of such statutes, decisions or other authorities and by page references to such portions of the record or recommended decision of the Administrative Law Judge as may be relevant. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript.

(b) *Reply briefs.* Reply briefs may be filed with the Board within 10 days after service of briefs and shall be confined to matters in original briefs of opposing parties. Further briefs may be filed only with the permission of the Board.

(c) *Delays.* Briefs not filed on or before the time fixed in this subpart will be received only upon special permission of the Board.

§ 747.113 Oral argument before the Board.

Upon its own initiative, or upon the written request of any party made within the time prescribed for the filing of exceptions, a brief in support thereof, or a reply brief, if any, for oral argument on the findings, conclusions, and recommended decision of the Administrative Law Judge, the Board, if it considers that justice will best be served, may order the matter to be set down for oral argument before it. Oral argument before the Board shall be recorded unless otherwise ordered by the Board.

§ 747.114 Notice of submission to the Board.

Upon the filing of the record with the Board, and upon the expiration of the time for the filing of exceptions and all briefs, including reply briefs or any further briefs permitted by the Board and upon the hearing of oral argument by the Board if ordered by the Board, the Board shall notify the parties that the case has been submitted to it for final decision.

§ 747.115 Decision of the Board.

(a) The Board's decision shall be premised upon the factual information developed of record and upon pertinent laws, rules, rulings, policy statements, and official publications of the Administration.

(b) Appropriate members of the staff of the National Credit Union Administration, who are not engaged in the performance of investigative or prosecuting functions in the case, or in a factually related case, may advise and assist the Board in the consideration of the case and in the preparation of appropriate documents for its disposition. Copies of the decision and order of the Board shall be furnished to the parties to the proceedings, the credit union involved, and to the appropriate State supervisory authority in the case of a State-chartered credit union.

§ 747.116 Filing papers.

Recommended decision, exceptions, briefs and other papers required to be filed with the Board in any proceeding shall be filed with the National Credit Union Administration Board, National Credit Union Administration, Washington, D.C. 20456. Any such papers may be sent to the Board by mail but must be received in the office of the Board in Washington, D.C., or postmarked by a post office, within the time limit for such filing.

747.117 Service.

(a) *By the Board.* All documents or papers required to be served by the Board upon any party afforded a hearing shall be served by the Board or its duly authorized representative. Service shall be made by personal service or by registered or certified mail, addressed to the last known address as shown on the records of the Administration, on the attorney or representative of record of each party. If there is no attorney or representative of record, such service shall be made upon the party at the last known address as shown on the records of the Administration. Service may also be made in such other manner reasonably calculated to give actual

notice as the Board may otherwise provide.

(b) *By the parties.* Except as otherwise expressly provided in this subpart, all documents or papers filed in a proceeding under this subpart shall be served by the party filing the same upon the attorneys or representatives of record of all other parties to the proceeding, or, if any party is not so represented, then upon such party. Service may be made by personal service or by registered or certified mail addressed to the last known address of the parties, or their attorneys or representatives of record. All such documents or papers shall, when tendered to the Board or Administrative Law Judge for filing, show that such service has been made.

(c) Copies of any notice or order served by the Board upon any State-chartered credit union or any director, officer, or committee member thereof or other person participating in the conduct of its affairs, pursuant to the provisions of this part, shall also be sent to the appropriate State supervisory authority having supervision of such credit union.

§ 747.118 Copies.

Unless otherwise specifically provided in the notice of the hearing, an original and seven copies of all documents and papers required or permitted to be filed or served upon the Board under this subpart, except the transcript of testimony and exhibits, shall be furnished to the Board.

§ 747.119 Computing time.

(a) *General rule.* In computing any period of time prescribed or allowed by this subpart, the date of the act, event or default from which the designated period of time begins to run is not to be included. The last day so computed shall be included, unless it is a Saturday, Sunday or legal holiday in the District of Columbia, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor such legal holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation unless the time within which the act is to be performed is 10 days or less in which event Saturdays, Sundays, and legal holidays shall not be included.

(b) *Service by mail.* Whenever any party has the right or is required to do some act or take some proceeding, within a period of time prescribed in this subpart, after the service upon him of any document or other paper of any kind, and such service is made by mail, 3 days shall be added to the prescribed period from the date when the matter served is deposited in the U.S. mail.

§ 747.120 Documents in proceedings confidential.

Unless and until otherwise ordered by the Board, the notice of hearing, the transcript, the recommended decision of the Administrative Law Judge, exceptions thereto, proposed findings or conclusions, the findings and conclusions of the Board and other papers which are filed in connection with any hearing shall not be made public, and shall be for the confidential use only of the Board, the Administrative Law Judge, the parties and appropriate authorities.

§ 747.121 Formal requirements as to papers filed.

(a) *Form.* All papers filed under this subpart shall be printed, typewritten, or otherwise reproduced. All copies shall be clear and legible.

(b) *Signature.* The original of all papers filed by a credit union shall be signed by an officer thereof, and if filed by another party shall be signed by said party, or by the duly authorized agent or attorney of the credit union or other party, and in all such cases shall show the signer's address. Counsel for the Administration shall sign the original of all papers filed by him.

(c) *Caption.* All papers filed must include at the head thereof, or on a title page, the name of the Administration, the name of the party, and the subject of the particular paper.

Subpart B—Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

§ 747.201 Scope.

Under the authority of section 206(b) of the Federal Credit Union Act, the Board may terminate the insured status of an insured credit union upon the grounds set forth therein and enumerated in § 747.202. The procedure for terminating the insured status of an insured credit union as therein prescribed will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart A of this Part.

§ 747.202 Grounds for termination of insurance.

The Board may institute proceedings to terminate the insured status of an insured credit union whenever it determines that an insured credit union (1) is engaging or has engaged in unsafe or unsound practices in conducting its business, (2) is in unsafe or unsound condition to continue as an insured credit union, or (3) is violating or has violated any applicable law, rule, regulation, order, written condition imposed by the Board in response to any application or request of the credit union, or any written agreement entered into with the Board.

§ 747.203 Notice of charges.

(a) Whenever the Board determines that grounds for termination of insured status exists, it will, for the purpose of securing correction of the errant or illegal conditions, serve a notice of charges upon the concerned credit union. This notice will contain a statement describing the unsafe or unsound practices, condition or the relevant violations.

(b) In the case of an insured State-chartered credit union, the Board shall send a copy of the Notice of Charges to the appropriate State authority, if any, having supervision over the credit union.

§ 747.204 Notice of intention to terminate insured status.

Unless correction of the practices, condition, or violations set forth in the Notice of Charges is made within 120 days after service of such statement, or within a shorter period of not less than 20 days after such service as the Board may require in any case where it determines that the insurance risk with respect to such credit union could be unduly jeopardized by further delay or as the appropriate State supervisory authority shall require in the case of an insured State-chartered credit union, the Board, if it determines to proceed further, shall give to the credit union not less than 30 days written notice of its intent to terminate the status of the credit union as an insured credit union. The notice shall contain a statement of the facts constituting the alleged unsafe or unsound practices or conditions or violations and shall fix a time and place for a hearing thereon which shall be a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or later date is set by the Board at the request of the credit union.

§ 747.205 Order terminating insured status.

If, upon the record of the hearing held pursuant to § 747.204, the Board finds that any unsafe or unsound practice or condition or violation specified in the notice has been established and has not been corrected within the time prescribed under § 747.204, the Board may issue and serve upon the credit

union an order terminating its status as an insured credit union on a date subsequent to the date of such finding and subsequent to the expiration of the time specified in the Notice.

§ 747.206 Consent to termination of insured status.

Unless the credit union appears at the hearing designated in the notice of hearing by a duly authorized representative, it will be deemed to have consented to the termination of its status as an insured credit union. In the event the credit union fails to so appear at such hearing, the Administrative Law Judge shall forthwith report the matter to the Board and the Board may thereupon issue an order terminating the credit union's insured status.

§ 747.207 Notice of termination of insured status.

Prior to the effective date of the termination of the insured status of an insured credit union under section 206(b) of the Federal Credit Union Act and at such time as the Board shall specify, the credit union shall mail to each member at his last address of record on the books of the credit union, and publish in not less than two issues of a local newspaper of general circulation, notices of the termination of its insured status, and the credit union shall furnish the Administration with proof of publication of such notice. The notice shall be as follows:

(Date)

1. The status of the ———— as an insured credit union under the provisions of the Federal Credit Union Act, will terminate as of the close of business on the —— day of ——;

2. Any deposits made by you after that date, either new deposits or additions to existing accounts, will not be insured by the National Credit Union Administration;

3. Accounts in the credit union on the —— day of ——, ——, up to a maximum of $40,000 for each member, will continue to be insured, as provided by the Federal Credit Union Act, for one (1) year after the close of business on the —— day of ——, ——; Provided, however, that any withdrawals after the close of business on the —— day of ——, ——, will reduce the insurance coverage by the amount of such withdrawals.

(Name of Credit Union)

(Address)

§ 747.208 Duties after termination.

(a) After the termination of the insured status of any credit union under sections 206(b) of the Federal Credit Union Act, insurance of its member accounts to the extent they were insured on the effective date of such termination, less any amounts thereafter withdrawn which reduce the accounts below the amount covered by insurance on the effective date of such termination, shall continue for a period of one (1) year, but no shares issued by the credit union or deposits made after the date of such termination shall be insured by the Board.

(b) The credit union shall continue to pay premiums to the Board during such period and the Board shall have the right to examine the credit union from time to time during the period. The credit union shall, in all other respects, be subject to the duties and obligations of an insured credit union during the one (1) year period. If the credit union is closed for liquidation within this period, the Board shall have the same powers and rights with respect to such credit union as in the case of an insured credit union.

Subpart C—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Actions

§ 747.301 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board with a view to ordering an insured credit union, or any director, officer, committee member, employee, agent or other party participating in the conduct of the affairs of an insured credit union to cease-and-desist from practices and violations described in sections 206(e) and (f) of the Federal Credit Union Act and enumerated in § 747.302. The procedures for issuing such orders prescribed in section 206 of the Act will be followed and the hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart A of this part.

§ 747.302 Grounds for cease-and-desist orders.

(a) The Board may institute cease-and-desist proceedings against any insured credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of an insured credit union.

(b) Cease-and-desist action may be taken whenever the Board determines, or has reasonable cause to believe, that one or more of the parties described in § 747.302(a)(1) is engaging, has engaged, or is about to engage in an unsafe or unsound practice in conducting the affairs of an insured credit union, or (2) is violating, has violated, or is about to violate any law, rule, regulation, written condition imposed by the Board in response to any application or request of an insured credit union, or any written agreement entered into with the Board.

§ 747.303 Notice of charges and hearing.

Whenever the Board determines to institute cease-and-desist proceedings, it will do so by serving a notice of charges and hearing upon the concerned party. This notice will contain a statement of the facts constituting the alleged unsafe or unsound practices or violation or violations and will fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the credit union, director, officer, committee member, employee, agent, or other person. The hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the Notice of Charges and Hearing, unless an earlier or later date is set by the Board at the request of any party so served. Unless the party or parties appear at the hearing personally or by a duly authorized representative, they will be deemed to have consented to the issuance of the cease-and-desist order.

§ 747.304 Issuance of order.

In the event of such consent as referred to in § 747.303, or if upon the record made at any hearing referred to in § 747.303, the Board finds that any unsafe or unsound practice or any violation specified in the notice of charges has been established, the Board may issue and serve upon the credit union, director, officer, committee member, employee, agent or other person an order to cease and desist from any such practice or violation. The order may, by provisions which may be mandatory or otherwise, require the concerned party or parties to cease and desist from the same and, further, to take affirmative action to correct the conditions resulting from any such practice or violation.

§ 747.305 Effective date.

A cease-and-desist order will become effective at the expiration of 30 days after its service (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and will remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

§ 747.306 Temporary cease-and-desist orders.

(a) *Issuance of Order.* Under section 206(f) of the Act, whenever the Board determines that the unsafe or unsound practices or violations or threatened

violations specified in the notice of charges referred to in § 747.302, or the continuation thereof is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union or is likely to seriously weaken the condition of the credit union or otherwise to seriously prejudice the interests of its insured members prior to the completion of the hearing described in § 747.303, the Board may issue a temporary order requiring the concerned credit union, director, officer, committee member, employee, agent or other person to cease and desist from any practice or violation.

(b) *Effective date of temporary order.* A temporary order will become effective upon its service and, unless set aside, limited, or suspended by a court in proceedings authorized under section 206(f)(2) of the Federal Credit Union Act and § 747.306(c) of this part, shall remain effective and enforceable pending the completion of the administrative proceedings held pursuant to the notice of charges and until such time as the Board dismisses the charges specified in the notice, or if a cease-and-desist order is issued, until the effective date of any such order.

(c) *Injunctive procedure.* (1) Within 10 days after service of a temporary cease-and-desist order, the party or parties so served may apply to the U.S. district court for the judicial district wherein the principal office of the credit union is located, or the U.S. District Court for the district of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served under § 747.302 and such court shall have jurisdiction to issue such injunction.

(2) In the case of a violation or threatened violation of, or a failure to obey a temporary cease-and-desist order, the Board may apply to the U.S. district court, or the U.S. Court of any territory, within the juridiction of which the principal office of the credit union is located for an injunction to enforce such order, and, as provided in section 206(f)(3) of the Act, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

Subpart D—Rules and Procedures Applicable to Proceedings Relating to Assessment and Collection of Civil Penalties.

§ 747.401 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board pursuant to § 206(j)(2) of the Federal Credit Union Act to assess and collect civil penalties of any insured credit union, or any director, officer, committee member, employee, agent or other person participating in the conduct of the affairs of an insured credit union where such a party has violated the terms of any cease-and-desist order that had become final.

§ 747.402 Grounds for assessment of civil money penalties.

(a) The Board may assess civil money penalties against any insured credit union, or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of an insured credit union, upon its finding that such a party has violated the terms of any cease-and-desist order issued pursuant to section 206 (e) and (f) of the Act and Subpart C of this Part that had become final. As used in this section, the term "has violated" includes, without any limitation, any action (alone or with another or others) for or towards causing, bringing about, participating in, counseling, or aiding and abetting a violation.

(b) The civil penalty cannot exceed $1,000 per day for each day during which the violation continues.

§ 747.403 Relevant considerations.

In determining the appropriate amount of the penalty assessed pursuant to § 747.402, the Board will take into account the size of financial resources and good faith of the violating party, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

§ 747.404 Notice of assessment.

The Board will assess civil money penalties by written notice served upon the party or parties assessed. The notice will state the amount of the penalty, and will contain a statement of law and fact upon which the penalty is based.

§ 747.405 Period within which penalty is payable.

The notice of assessment made pursuant to § 747.404 will provide that the civil penalty will become payable, and is to be collected, within 90 days of such notice. If the Board finds that in the specific case the purposes of the penalty will be better served if this period is shortened or eliminated, the Board may shorten the period or make the civil penalty payable immediately upon receipt of notice thereof, as the case may be. In such case, the notice of assessment will indicate when the civil penalty will be payable.
Notwithstanding any other provision of this or any other section of this subpart, if a party has requested a hearing pursuant to § 747.407 in order to challenge a penalty or a finding antecedent to such a penalty, the party will not be required to make actual payment of the penalty until the Board issues a final order following such hearing.

§ 747.406 Notice of opportunity for hearing.

The notice of assessment made pursuant to § 747.404 will be accompanied by a further notice to the party that it will be afforded a hearing if within ten days after service of the notice of assessment the party requests one in writing. The notice of opportunity for a hearing will be accompanied by a description of the hearing procedure.

§ 747.407 Request for hearing.

A request for a hearing shall be filed in writing with the Chairman, National Credit Union Administration Board, Washington, D.C. 20456. If a party does not request a hearing in writing within ten days after service of the notice of assessment, it will be deemed to have waived its claim to a hearing, and the notice of assessment will constitute a final and unappealable order.

§ 747.408 Hearing and order.

After receiving a request for a hearing pursuant to § 747.407, the board will order a hearing to commence within the next 30 days. The procedures of the Administrative Procedure Act (5 U.S.C. §§ 554–557) and Subpart A will apply to the hearing. If, on the record made at such hearing, the board finds that the grounds for the civil money penalty has been established, the Board will issue and cause to be served its final order. Such final order will require the penalty to be paid at the time originally specified in the notice of assessment, or at the time of service of such final order upon the party, whichever is later. In issuing its order the Board may, in its discretion, reduce the amount specified in the notice.

Subpart E—Rules and Procedures Applicable to Proceedings Relating to 206(g) Suspension and Removal Actions

§ 747.501 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board to suspend, remove, and/or prohibit from further participation, any director, officer, committee member, or any other person participating in the conduct of the affairs of an insured credit union, upon the grounds set forth in section 206(g) of the Federal Credit Union Act and enumerated in this subpart. The rules and procedures set forth in this subpart are not applicable to suspension, removal, or prohibition proceedings brought upon grounds set forth in section 206(h) of the Federal Credit Union Act and enumerated in Subpart F.

§ 747.502 Grounds for removal order.

(a) The Board may remove any director, officer, or committee member of an insured credit union upon its finding that such a party (1) has violated any applicable law, rule, regulation, or cease-and-desist order which has become final or (2) has engaged or participated in any unsafe or unsound practice in connection with the credit union, or (3) has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as director, officer, or committee member and that the credit union has suffered, or will probably suffer, substantial financial loss or other damage, or that the interests of the credit union's insured members could be seriously prejudiced, by reason of the violation, practice, or breach of fiduciary duty.

(b) The Board may remove any director, officer, or committee member of an insured credit union who the Board finds has, by conduct or practice with respect to another insured credit union or other business institution which resulted in substantial financial loss or other damage, evidenced his personal dishonesty or unfitness to continue in his position.

(c) The Board may prohibit any person participating in the conduct of the affairs of an insured credit union from any further participation therein upon its finding that such a party has, by conduct or practice with respect to the insured credit union, another insured credit union, or another business institution which resulted in substantial financial loss or other damage, evidenced his personal dishonesty or unfitness to continue his participation with the insured credit union.

§ 747.503 Notice of intent to remove and/or prohibit hearing.

Whenever the Board determines that grounds for removal or prohibition action exist, it will serve upon the concerned director, officer, committee member, or other person a notice of intent to remove and/or prohibit hearing. This notice will contain a statement of the facts constituting the grounds therefor and will fix a time and place at which a hearing will be held thereon. The hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of the notice unless an earlier or a later date is set by the Board at the request of the party concerned, for good cause shown, or at the request of the Attorney General of the United States. Unless the responding party shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of removal and/or prohibition.

§ 747.504 Issuance of removal order and effective date.

(a) In the event of such consent referred to in § 747.503 or if upon the record made at any such hearing the Board shall find that any of the grounds specified in the notice has been established, the Board may issue such orders of removal from office and/or prohibition from participation in the conduct of the affairs of the credit union as it may deem appropriate.

(b) Any such order shall become effective at the expiration of 30 days after service upon the party concerned (except in the case of an order issued upon consent which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

§ 747.505 Suspension actions.

(a) *Grounds for suspension and Notice.* In respect to any director, officer, or committee member of an insured credit union or any other person referred to in § 747.502 (a), (b) or (c), the Board may, if it deems it necessary for the protection of the credit union or the interests of its insured members, by written notice to that effect served upon such a party suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the credit union.

(b) *Effective date of suspension.* The suspension and/or prohibition will be effective upon service of the notice thereof and, unless stayed by a court in proceedings authorized by section 206(g)(5) of the Federal Credit Union Act and described in subsection (c) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under § 747.502 of this subpart and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal and/or prohibition is issued against the director, officer, committee member, or other person, until the effective date of any such order. Copies of any such order shall also be served upon the credit union of which the respondent party is a director, officer, or committee member or in the conduct of whose affairs he has participated.

(c) *Stay of suspension or prohibition.* Within 10 days after any director, officer, committee member, or other persons has been suspended from office and/or prohibited from participation in the conduct of the affairs of an insured credit union under section 206(g)(3) of the Federal Credit Union Act and as set forth in this subpart, the concerned party may apply to the U.S. district court for the judicial district in which the principal office of the credit union is located, or the U.S. District Court for the District of Columbia, for a stay of such suspension and/or prohibition pending the completion of the administrative proceedings, and such court shall have jurisdiction to stay such suspension and/or prohibition.

§ 747.506 Remainder of the board of directors.

(a) If at any time, because of the suspension of one or more directors pursuant to this subpart, or pursuant to Subpart F, there shall be on the board of directors of an insured credit union less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum on the board of directors.

(b) In the event all of the directors of an insured credit union are suspended pursuant to this subpart, or pursuant to Subpart F, the Board shall appoint persons to serve temporarily as directors in their place pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the credit union and their respective successors have been elected by the

members at an annual or special meeting and have taken office.

(c) Directors appointed temporarily by the Board pursuant to paragraph (b) of this session, shall, within 30 days following their appointment, call a special meeting for the election of new directors, unless during such 30 day period (1) the regular annual meeting is convened, or (2) the suspensions giving rise to the appointment of temporary directors are terminated.

Subpart F—Rules and Procedures Applicable to Suspensions and Prohibitions Where Felony Charged

§ 747.601 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board pursuant to section 206(h) of the Federal Credit Union Act to suspend, remove, and/or prohibit from further participation any director, officer, committee member, or other person participating in the conduct of the affairs of an insured credit union when such a party is charged in, or convicted as a result of, any State, Federal or territorial information or indictment, or in any complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which crime is punishable by imprisonment for a term exceeding one year under State or Federal law.

§ 747.602 Rules of practice.

Except as otherwise specifically provided in this subpart, the provisions of § 747.102 ("Appearance and practice before the Administration"), § 747.103 ("Notice of hearing"), § 747.119 ("Computing time") and § 747.120 ("Documents in proceedings confidential") of Subpart A shall apply to proceedings conducted under this subpart. In addition, the provisions of § 747.506 ("Remainder of the board of directors") shall apply to this subpart as noted therein.

§ 747.603 Notice of suspension or prohibition.

Whenever a director, officer, or committee member of an insured credit union or any other person participating in the conduct of the affairs of such credit union, is charged in any State, Federal or territorial information or indictment, or in any complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which crime is punishable by imprisonment for a term exceeding one year under State or Federal law, the Board may, if continued service or participation by the concerned party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such individual, suspend him from office, or prohibit him from further participation in any manner in the affairs of the credit union, or both. A copy of the notice of suspension or prohibition shall also be served upon the credit union. This suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of, or until such suspension or prohibition is terminated by the Board.

§ 747.604 Removal or permanent prohibition.

In the event that a judgment of conviction with respect to a crime referred to in § 747.603 is entered against a director, officer or committee member of an insured credit union or any other person participating in the conduct of the affairs of such credit union, and at such time as the judgment is not subject to further appellate review, the Board may, if continued service or participation by the individual may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union issue and serve upon the individual an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board. A copy of such order will also be served upon such credit union. A finding of not guilty or other disposition of the charge will not preclude the Board from thereafter instituting proceedings to remove such director, committee member, officer, or other person from office or to prohibit further participation in affairs, pursuant to the provisions of section 206(g) of the Federal Credit Union Act and Subpart E.

§ 747.605 Effectiveness of suspension or removal until completion of hearing.

Any notice of suspension or prohibition issued under § 747.603 and any order of removal or prohibition issued under § 747.604, will be effective upon service on the concerned party and will remain effective and outstanding until the completion of any hearing or appeal authorized under Section 206(h) of the Federal Credit Union Act and this subpart, unless such notice of suspension or order of removal is terminated by the Board.

§ 747.606 Notice of hearing.

(a) Any notice of suspension or prohibition issued pursuant to § 747.603, and any order of removal or prohibition issued pursuant to § 747.604, shall be accompanied by a further notice to the concerned individual that he may within 30 days of service of such notice, request in writing a hearing at which he may present evidence and argument that his continued service to or participation in the conduct of the affairs of the credit union does not, or is not likely to, pose a threat to the interests of the credit union's members or threaten to impair confidence in the credit union. Any notice of the opportunity for a hearing shall be accompanied by a description of the hearing procedure and the criteria to be considered.

(b) A request for a hearing filed pursuant to paragraph (a) above shall state with particularity the relief desired, the grounds therefor, and shall include, when available, supporting evidence. Such petition and supporting evidence shall be filed in writing with the National Credit Union Administration Board, Washington, D.C. 20456.

§ 747.607 Hearing.

(a) After the receipt of a request for a hearing complying with § 747.606, the Board will order a hearing to commence within the next succeeding 30 days in Washington, D.C., or at such other place as it designated by the Board, before a person designated by the Board to conduct such hearings. At the request of the concerned party, the Board may order the hearing to commence at a time more than thirty days after the receipt of the request for such hearing.

(b) The notice of the hearing shall be served by the Board upon the party or parties afforded the hearing and shall set forth the time and place of the hearing and the name and address of the presiding officer.

(c) The subject individual may appear at the hearing personally, through counsel, or personally with counsel. The individual shall have the right to introduce relevant and material written materials (or, at the discretion of the Board, oral testimony), and to present an oral argument before the presiding officer. A member of the staff of the Office of the General Counsel of the National Credit Union Administration may attend the hearing and may participate as a party. Neither the formal rules of evidence nor the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. §§ 554–557) shall apply to the hearing. The proceedings shall be recorded and a

transcript will be furnished to the individual upon request and after the payment of the cost thereof. The Board shall have the discretion to permit the presentation of witnesses, within specified time limits, so long as a list of such witnesses is furnished to the presiding officer ten (10) days prior to the hearing. Witnesses shall not be sworn, unless specifically requested by either party or the presiding officer. The presiding officer may ask questions of any witness and each party shall have the opportunity to cross-examine any witness presented by an opposing party. Upon the request of either the subject individual or the representative of the Office of the General Counsel, the record shall remain open for a period of five (5) business days following the hearing, during which time the parties may make any additional submissions to the record. Thereafter, the record shall be closed.

(d) In the course of or in connection with any proceeding under this subpart, the Board or the presiding officer will have the power to administer oaths and affirmations, to take or cause depositions to be taken, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum. If the Board permits the presentation of witnesses, the Board or the presiding officer, may require the attendance of witnesses from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Witnesses subpenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States. The Board or the presiding officer may require the production of documents from any place in any such State, territory, or other place.

(e) The presiding officer will make his recommendations to the Board, where possible, within ten (10) business days following the close of the record.

§ 747.608 Waiver of hearing; failure to request hearing or review based on written submissions; failure to appear.

(a) The subject individual may, in writing, waive an oral hearing and instead elect to have the matter determined by the Board on the basis of written submissions alone.

(b) Should any concerned party fail to request in writing an oral hearing or consideration based on written submissions alone within thirty (30) days of service of the notice described in § 747.606 of this subpart, he will be deemed to have consented to the Board's action.

(c) Unless the concerned party appears at the hearing personally or by duly appointed representative, he will be deemed to have consented to the Board's action.

§ 747.609 Decision of the Board.

(a) Within sixty (60) days following the hearing, or receipt of the subject individual's written submissions where hearing has been waived pursuant to § 747.608, the Board shall notify the director, committee member, officer, or other person whether the suspension or prohibition will be continued, terminated, or otherwise modified, or whether the order of removal or prohibition will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the decision of the Board, if that decision is adverse to the respondent party. In the case of a decision favorable to the respondent, on the subject of a prior order of removal or prohibition, the Board shall take prompt action to rescind or otherwise modify the order of removal or prohibition.

§ 747.610 Reconsideration by the Board of Directors.

(a) The subject individual shall have ten (10) business days following receipt of the decision of the Board in which to petition the Board for initial reconsideration.

(b) The subject individual also shall be entitled to petition the Board for reconsideration of its decision any time after the expiration of a twelve-month period from the date of the Board's decision, but no petition for reconsideration may be made within 12 months of a previous petition.

(c) Any petition shall state with particularity the basis for reconsideration, the relief sought, and any exceptions the individual has to the Board's findings. An individual's petition may be accompanied by a memorandum of points and authorities in support of his petition and any supporting documentation the individual may wish to have considered.

(d) No hearing need be granted on such petition for reconsideration. Promptly following receipt of the petition the Board shall render its decision.

§ 747.611 Relevant considerations.

In deciding the question of suspension, prohibition, or removal under this subpart the Board will consider the following:

(a) Whether the alleged offense is a crime which is punishable by imprisonment for a term exceeding one year under State or Federal law, and which involves dishonesty or breach of trust;

(b) Whether the continued presence of the subject individual in his position may pose a threat to the interests of the credit union's members because of the nature and extent of the individual's participation in the affairs of the insured credit union and/or the nature of the offense with the commission of or participation in which the individual has been charged.

(c) Whether there is cause to believe that there may be an erosion of public confidence in the integrity, safety, or soundness of a particular credit union (either generally or in the particular locality in which the credit union is situated) if the subject individual is permitted to remain in his position in an insured credit union; and

(d) Whether the individual is covered by the credit union's fidelity bond and, if so, whether the bonding company is likely to revoke the bond, or whether coverage under the bond will be affected adversely as a result of the information, indictment, complaint, or judgment of conviction.

(e) The Board may consider any other factors which, in the specific case, appear relevant to the decision to continue in effect, rescind, terminate, or modify a suspension, prohibition, or removal order, except that it shall not consider the ultimate question of the guilt or innocence of the subject individual with regard to the crime with which he has been charged.

Subpart G—Rules and Procedures Applicable to Proceedings Relating to the Suspension or Revocation of Charters and to Involuntary Liquidations

§ 747.701 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board pursuant to §§ 120(b)(1) and 207(a) to suspend or revoke the charter of a Federal credit union, and to place a Federal credit union into involuntary liquidation.

§ 747.702 Grounds for suspension or revocation of charter and for involuntary liquidation.

(a) *Grounds in general.* The Board may suspend or revoke the charter of any Federal credit union, and place such credit union into involuntary liquidation and appoint a liquidating agent therefor, upon its finding that the credit union has violated any provision of its charter or by-laws or of the Federal Credit Union Act or regulations issued under said

Act. Upon its finding that a Federal credit union is bankrupt or insolvent, the Board shall revoke the charter of such credit union, close same for liquidation, and appoint itself as liquidating agent therefor.

(b) *Immediate suspension.* In any case where the Board determines that a Federal credit union is insolvent and that immediate action is necessary in order to prevent further dissipation of credit union assets or earnings, or further weakening of the credit union's condition, or to otherwise protect the interests of the credit union's insured members or the National Credit Union Share Insurance Fund, it may order without prior notice, the immediate suspension of the charter of such credit union, and if the circumstances so warrant, may take possession of all books, records, assets, and property of every description of such credit union.

§ 747.703 Notice of intent to suspend or revoke charter; notice of suspension.

(a) Upon its determination that one or more of the grounds listed in § 747.702(a) exists, or that because of conditions described in § 747.702(b) immediate suspension of charter is necessary, the Board shall cause to be served upon that credit union a notice of intent to suspend or revoke charter and of intent to place into involuntary liquidation, or a notice of suspension. Such notice shall contain a statement of the facts which constitute the grounds for the action, a recitation of the options available to the credit union under subsection (b), and an explanation of the results that will occur if the credit union fails to exercise said options.

(b) Not later than forty (40) days after the receipt of the notice provided for in subsection (a), the Federal credit union may: (1) file with the Board a statement in writing setting forth the the grounds and reasons why its charter should not be suspended or revoked and, why it should not be placed into involuntary liquidation, or (2) in lieu of a written statement, request an oral hearing which shall be conducted in accordance with the procedures set forth in this subpart. This statement or request shall be accompanied by a certified copy of a resolution of the board of directors of the Federal credit union concerned authorizing such statement or request, such certification to be made by the president and secretary of the board.

(c) If the Federal credit union concerned does not exercise either alternative available in subsection (b) within the time required, it shall be deemed to have admitted the facts alleged in the notice and shall be deemed to have consented to the relief sought.

§ 747.704 Notice of hearing.

(a) Immediately upon receipt of a request for an oral hearing pursuant to § 747.703(b), the Board shall notify, in writing, the Federal credit union making such request of the time, place, and nature of such hearing. Such hearing shall be fixed for a date not earlier than thirty (30) days nor later than sixty (60) days after service of such notice unless an earlier or later date is requested by the Federal credit union concerned and is granted by the Board in its discretion.

(b) Except as provided in § 747.705(b) of this subpart, the procedures of the Administrative Procedures Act (5 U.S.C. §§554–557) and Subpart A will apply to the hearing.

(c) Unless the Federal credit union shall appear at such hearing by a duly authorized representative it shall be deemed to have consented to the suspension or revocation of its charter and to the placing of said credit union into involuntary liquidation.

§ 747.705 Issuance of order.

(a) In the event of such consent as referred to in §§ 747.703(c) or 747.704(c), or if upon the record made at any such hearing as referred to in § 747.703(b), the Board finds that the charter of the Federal credit union concerned should be suspended or revoked and the credit union closed and place into involuntary liquidation, it shall cause to be served on such credit union an order directing the suspension or revocation of this charter, and, directing that it be closed and placed into involuntary liquidation. Such order shall contain a statement of the findings upon which the order is based. Additionally, the Board shall appoint an agent for the liquidating agent.

(b) The Board shall render its decision and cause such order to be served not later than forty-five (45) days after receipt of consent, or written submissions as the case may be, or in the case of a formal hearing after service or the notice of submission referred to in § 747.114.

(c) On the receipt of a copy of the order which provides that the Federal credit union concerned be placed into involuntary liquidation, the officers and directors of that Federal credit union shall immediately deliver to the agent for the liquidating agent possession and control of all books, records, assets, and property of every description of the Federal credit union, and the agent for the liquidating agent shall proceed to convert said assets to cash, collect all debts due to said Federal credit union and to wind up its affairs in accordance with the provisions of the Federal Credit Union Act.

§ 747.706 Cancellation of charter.

On the completion of the liquidation and certification by the agent for the liquidating agent that the distribution of the assets of the Federal credit union has been completed, the Board shall cancel the charter of the Federal credit union concerned.

Subpart H—Rules and Procedures Applicable to Proceedings Relating to the Termination of Membership in the Central Liquidity Facility [Reserved]

[FR Doc. 79-22230 Filed 7-17-79; 8:45 am]
BILLING CODE 7535-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 288

[Reg. ER-1133; Docket 29387; Amendment No. 67]

Exemption of Air Carriers for Military Transportation; Fuel Surcharge Rate

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., July 12, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule establishes a 5.19 percent fuel surcharge rate applicable to the minimum military charter rates (ER-1045, December 27, 1977) for foreign and overseas air transportation services performed for the Department of Defense (DOD) and procured by the Military Airlift Command (MAC). This surcharge amendment is effective June 1, 1979, and is triggered by an increase in the average fuel price for the participating MAC carriers of 8.06 cents per gallon—from 41.31 cents per gallon to 49.37 cents per gallon.

DATES: Adopted: July 12, 1979. Effective: July 12, 1979.

FOR FURTHER INFORMATION CONTACT: James E. Gardner, Domestic Fares and Rates Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, Phone: 202-763-5364.

SUPPLEMENTAL INFORMATION: As indicated in ER-1024 (42 FR 58902, November 11, 1977), dated November 3, 1977, the Board monitors fuel price changes and establishes fuel surcharge rate adjustments when the average price of fuel for participating MAC carriers changes one cent or more per gallon. ER-1130, adopted June 7, 1979,

established a fuel surcharge of 3.11 percent, based on April 1979 fuel data, effective May 1, 1979.

The Board has completed its review of the latest available fuel cost data as reported on C.A.B. Form 41, Schedule P-12(a) for foreign and overseas MAC air transportation services for the month of May 1979, and is establishing surcharge provisions in Part 288 of its Economic Regulations (14 CFR Part 288) applicable to the rates established for those services.[1] The basis for issuing this surcharge amendment is the increase in average fuel price for the participating MAC carriers of 8.06 cents per gallon—from 41.31 cents per gallon reflected in the currently effective base rates to the latest reported average price of 49.37 cents per gallon.

The attached Appendix sets forth the results of the surcharge rate computation for the reported fuel price changes for commercial and military fuels consumed in military charter service for the month of May 1979, and the rate impact of the changes in current average fuel prices from those reflected in the base rates. Accordingly, we will establish the fuel surcharge rate applicable to the current base final rates, effective June 1, 1979, to increase the Category B and Category A rates by 5.19 percent.

In view of the present need for a fuel surcharge to the minimum rates set forth in Part 288, we find that good cause exists for adopting these amendments without notice and public procedure and for making them effective on less than thirty (30) days' notice.

In consideration of the foregoing, the Board amends Part 288 of its Economic Regulations (14 CFR Part 288), as follows:

In § 288.7, paragraph (a) is amended by revising the third proviso, and paragraph (d) is amended by revising the proviso, to read:

§ 288.7 Reasonable level of compensation.

* * * * *

(a) * * *

Provided, * * *: *And provided further,* * * *: *Provided, however,* That the total minimum compensation pursuant to the rates set forth in paragraph (a)(1) of this section for services performed on or after June 1, 1979, with regular jet, wide-body jet and DC-8-61/63 aircraft shall be increased by a surcharge of 5.19 percent.

* * * * *

(d) * * *

Provided, That the total minimum compensation pursuant to the rates specified in paragraphs (d)(1) and (2) of § 288.7 shall be increased by a surcharge of 5.19 percent for services performed on or after June 1, 1979.

* * * * *

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

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

BILLING CODE 6320-01-M

[1] This and future surcharge amendments will be made applicable to the minimum MAC rates established in ER—1045, effective December 27, 1977, until such time as new final base rates may be established.

APPENDIX

MAC LONG-RANGE CARRIERS

Computation of Fuel Surcharge Based on
May 1979 P-12(a) Fuel Data Reports

Carriers	May 1979 P-12(a) Data			Price Per Gallon Used in Latest Surcharge Computation 1/	Currently Effective Base Average Price 2/	Percent Price Increase (Decrease) Current/Base	Fuel Cost as a Percent of Total Economic Cost 3/	Fuel Price Change Impact on Base Economic Costs	Rate Impact Weighting Factor 4/	Base Rate Impact for Fuel Price Change
	Cost	Gallons	Avg. Cost Per Gallon							
Airlift	$ 282,496	562,508	50.22¢	49.97¢	45.68¢	9.94%	37.25%	3.70%	4.38%	0.162%
Capitol	90,116	175,705	51.29	45.35	38.96	31.65	32.36	10.24	1.49	0.153
Flying Tiger	1,105,833	2,525,688	43.78	43.35	40.32	8.58	27.81	2.39	18.91	0.452
Northwest	102,183	218,735	46.72	43.99	40.69	14.82	29.34	4.35	16.82	0.732
Pan American	37,281	82,012	45.46	45.86	41.21	10.31	24.27	2.50	25.95	0.649
Seaboard	246,885	365,558	67.54	46.51	45.98	46.89	32.23	15.11	9.81	1.482
Trans Int'l.	960,396	1,987,367	48.33	49.43	40.65	18.89	30.01	5.67	13.07	0.741
World	897,223	1,622,373	55.30	50.25	42.83	29.12	29.50	8.59	9.57	0.822
Totals	$3,722,413	7,539,946	49.37¢	46.96¢	41.31¢		28.51%		100.00%	5.193%

1/ ER-1130.
2/ Average per gallon fuel costs used in determining currently effective base rates (ER-1045) as set out in ER-1024.
3/ ER-1088, Appendix B.
4/ ER-1088, Appendix D.

[FR Doc. 79-22207 Filed 7-17-79; 8:45 am]
BILLING CODE 6320-01-C

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-2970]

Prohibited Trade Practices, and Affirmative Corrective Actions; Cooper Industries, Inc.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Houston, Texas manufacturer of hand tools, compressors and other products used by the oil and gas industries to timely divest, subject to FTC approval, its Rotor Tool Division and the gas compressor business acquired through its merger with the Gardner-Denver Company. Additionally, the firm is barred for ten years from acquisitions in the two product areas without prior Commission approval.

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

FOR FURTHER INFORMATION CONTACT: FTC/CS-3 Jonathan E. Gaines, Washington, D.C. 20580. (202) 724-1276.

SUPPLEMENTARY INFORMATION: On Monday, April 9, 1979, there was published in the **Federal Register**, 44 FR 21033, a proposed consent agreement with analysis In the Matter of Cooper Industries, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5-20 Federal Trade Commission Act.

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

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

Carol M. Thomas,

Secretary.

[FR Doc. 79-22152 Filed 7-17-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF STATE

22 CFR Part 51

[Dept. Reg. 108.779]

Denial of Passport Facilities to Minors; Denial of Passport Facilities in Cases Involving a Criminal Court Order

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department's regulation governing passport issuance in a case involving the custody of a minor is revised to deny issuance of a passport to such a minor when the passport issuing office receives an order which was issued by a court in the country in which the passport is being sought and which gives custody to the objecting parent, guardian or person in loco parentis or forbids the child's departure from the country in which the passport is sought. In addition, the Department's regulation pertaining to the denial of passports in cases in which the applicant is subject to a court order, conditions of probation, or conditions of parole any of which forbid the applicant's departure from the United States is revised to apply to criminal cases in which the applicant's departure could subject the applicant to a provision of the Federal Fugitive Felon Act (18 U.S.C. 1073).

EFFECTIVE DATE: This rule will become effective August 17, 1979.

FOR FURTHER INFORMATION CONTACT: Robert Kott, Office of Citizenship, Nationality and Legal Assistance, Passport Services, Bureau of Consular Affairs, Department of State, Room 5813, Washington, D.C. 20520, (202) 632-0897.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** on March 29, 1979 (44 FR 18699). All interested persons were invited to submit comments by May 29, 1979. No unfavorable comments were received; therefore, the proposed amendment is adopted without change, as set forth below.

Dated: June 28, 1979.

For the Secretary of State.

Barbara M. Watson,

Assistant Secretary for Consular Affairs.

In Title 22 CFR §§ 51.27(d) and 51.70(a)(2) are revised to read as follows:

§ 51.27 Minors.

* * * * *

(d) Objection by parent or guardian in cases involving the custody of a minor. When there is controversy concerning the custody of a minor, the passport issuing office may deny issuance of a passport to the minor if it receives a court order from a court within the country in which passport services are sought. The court order must give custody of the minor to the objecting parent, legal guardian or person in loco parentis or must forbid the child's departure from the country in which passport services are sought without the permission of the court.

§ 51.70 Denial of passports.

(a) A passport except for direct return to the United States, shall not be issued in any case in which:

(1) * * *

(2) The applicant is subject to a criminal court order, condition of probation or condition of parole, any of which forbid departure from the United States and the violation of which could subject the applicant to a provision of the Federal Fugitive Felon Act (18 U.S.C. 1073); or

* * * * *

(Sec. 1, 44 Stat. 887, sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966-70 comp., p. 507)

[FR Doc. 79-20695 Filed 7-17-79; 8:45 am]

BILLING CODE 4710-06-M

POSTAL SERVICE

39 CFR PART 111

Restrictions on the Use of Penalty Indicia

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule prohibits the use of official mail (penalty) indicia on items carried outside the U.S. Mail, with certain exceptions. The official mail indicium includes, among other things, the information that "Postage and Fees (have been) Paid" and that there is a "Penalty for Private Use, $300". The use of official mail covers or labels for transporting matter outside the mails may mislead the public and may inhibit the ability of the Postal Service to insure

that postage is paid if the item is subsequently deposited in the mails.

EFFECTIVE DATE: August 20, 1979.

FOR FURTHER INFORMATION CONTACT: James S. Stanford, Manager, Government Revenue and Examination Branch, (202) 245-5001.

SUPPLEMENTARY INFORMATION: On March 23, 1979, the Postal Service published for comment in the **Federal Register** (44 FR 17758) a proposal to revise section 137.247 of the Postal Service Manual to prohibit use of penalty indicia on items carried outside the U.S. Mail. Comments were received from four Federal Government agencies and one non-government party.

One agency requested that the proposed regulation be modified because, as written, it would prevent an agency from taking advantage of lower zone rates by drop-shipping a large quantity of parcels by a commercial carrier to a bulk mail center for subsequent distribution by the Postal Service. We believe the request is reasonable and have so amended the regulation.

Two agencies requested that the regulation be amended to exempt official items carried by employees of the originating agencies. Otherwise, agencies would have to stock a greater variety of envelopes and increase envelope, printing, storage, and distribution costs. We believe the comments are valid and have amended the regulation to exempt official items carried by employees of the originating agency.

Another agency requested an amendment to the regulation that would allow use of the penalty indicia on items carried outside the mails on which postage has been paid. We believe this to be a valid point and have amended the regulation to permit use of the indicia on such mail provided a written agreement is reached between the originating agency and the Manager, Government Revenue and Examination Branch to account for and pay postage on official items carried outside the U.S. Mail to avoid violation of the Private Express Statutes.

One commenter suggested that the penalty privilege be abolished and that agencies use postage meters and stamps on their mail. Penalty mail is established by statute (see 39 U.S.C. 3202). The Postal Service has no authority to abolish it by rulemaking.

When this proposed rule was published in the Federal Register in March 1979, it was drafted as an amendment to Chapter I of the Postal Service Manual. Since that time, however, Chapter I of the Postal Service Manual has been replaced by the Domestic Mail Manual, which, among other things, carries forward the regulations on penalty mail and goes into effect on July 30, 1979. See 44 FR 39742. In view of the imminent obsolescence (with certain exceptions not pertinent here) of Chapter I of the Postal Service Manual, the final rule in this rulemaking has been drafted as an amendment of the Domestic Mail Manual. The numbering system of Part 137—OFFICIAL MAIL in the Domestic Mail Manual is the same as it was in the Postal Service Manual.

In view of the considerations discussed above, the Postal Service hereby adopts the following revisions of the Domestic Mail Manual:

Part 137—Official Mail

In 137.24 revise .247 to read as follows:

.24 *Indicium.*

* * * * *

.247 The markings required in 137.242 through .246—

a. May be used only to transmit official mail, and

b. Shall not be used on items carried outside the U.S. Mail except under the following circumstances:

(1) When official items are carried by employees of the originating agency;

(2) When official items are carried by contractors for subsequent entry into the U.S. Mail under the provisions of 137.253, .254 and .255; or

(3) When agencies reach written agreement with the Manager, Government Revenue and Examination Branch to account for and pay postage on official items carried outside the U.S. Mail to avoid violation of the Private Express Statutes (18 U.S.C. 1693-1699 and 39 U.S.C. 601-606).

39 U.S.C. 401(2), (10); 404(a)(2), (4)).

W. Allen Sanders,

Acting Deputy General Counsel.

[FR Doc. 79-22153 Filed 7-17-79; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 1

[FRL 1276-1]

Statement of Organization and General Information; Amendment

AGENCY: U. S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Code of Federal Regulations 40, Part 1 has been amended to update the statement of organizational structure titles.

EFFECTIVE DATE: June 30, 1979.

FOR FURTHER INFORMATION CONTACT: Jack Tarran, Acting Director, Management and Organization Division (PM-213), Office of Management and Agency Services, U.S. Environmental Protection Agency, Washington, D.C. 20460 (202) 755-0844.

SUPPLEMENTARY INFORMATION: This revision reflects various organization title changes. The EPA Organization and Functions Manual, which presents a detailed picture of Agency structure, is available as indicated in § 1.5 below. Since this rule was prepared simply to reflect Agency current structure, there was no proposed rule with solicitation of public comments.

Dated: July 11, 1979.

Douglas M. Costle,

Administrator.

Part 1 of Chapter I is amended to read as follows:

In Subpart A, Section 1.7, (b)(7) is amended to read as follows:

§ 1.7 Location of principal offices.

* * * * *

(b) * * *

(7) Region VII, Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, Mo. 64108. (Iowa, Kansas, Missouri, and Nebraska) changed to Region VII, Environmental Protection Agency, 324 E. 11th Street, Kansas City, Mo. 64106. (Iowa, Kansas, Missouri, and Nebraska).

§ 1.25 [Amended]

In Subpart B, § 1.25(c) is amended by changing "Office of Administration" to the "Office of Management and Agency Services".

§ 1.33 [Amended]

In Subpart B, § 1.33(a) is amended to read as follows: a. "Office of Administration" should be changed to "Office of Management and Agency Services".

b. The Office of Planning and Management (§ 1.33) functional Statement contains references to "Office of Administration" which should be referred to as the Office of Management and Agency Services.

[FR Doc. 79-22229 Filed 7-17-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1249-3]

Disapproval of a Delayed Compliance Order Issued by West Virginia Air Pollution Control Commission to National Steel Corp.; Weirton Steel Division

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby disapproves a Delayed Compliance Order issued by the West Virginia Air Pollution Control Commission to the National Steel Corporation; Weirton Steel Division. The Order requiring the company to bring emissions from its Mainland Coke Plant coke oven gas desulfurization system at Weirton, West Virginia into compliance with certain regulations contained in the Federally approved West Virginia State Implementation Plan (SIP), contemplates inadequate control technology.

DATES: This rule takes effect on July 18,1979.

FOR FURTHER INFORMATION CONTACT: Joseph W. Kunz, U.S. EPA—Region III, Curtis Building, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, 215/597-8338.

ADDRESSES: A copy of the Delayed Compliance Order, supporting material, and comments received in response to a prior **Federal Register** notice proposing disapproval of the Order are available for public inspection and copying during normal business hours at: Air Enforcement Branch, U.S. EPA, Region III, Curtis Building, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106.

SUPPLEMENTARY INFORMATION: On January 4, 1979, the Regional Administrator of EPA's Region III Office published in the **Federal Register**, Volume 44, Number 3, Page 1200, a notice proposing disapproval of a Delayed Compliance Order issued by the West Virginia Air Pollution Control Commission to the National Steel Corporation; Weirton Steel Division. The notice asked for public comments by February 4, 1979 on EPA's proposed disapproval of the Order. The only comments received were from the West Virginia Air Pollution Control Commission and National Steel Corporation. In these comments, the Company claimed that the design improvements which will be incorporated in the Vacuum Carbonate-Claus Sulfur Recovery coke oven gas desulfurization system contemplated by the Order constitute a new means of emission limitation and, therefore, such Order should be approved in accordance with Section 113(d)(4) of the Act. EPA, however, does not agree that such a system would constitute a new means of emission limitation since the design changes contemplated by the Company have been used either in whole or in part at other industry sources; one of which is the Company's Browns Island Coke Plant.

Therefore, in consideration of the comments received on EPA's proposed action, the Delayed Compliance Order issued to National Steel Corporation; Weirton Steel Division is disapproved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). Such disapproval is based on the Order not satisfying the requirements of Section 113(d)(1)(D) in that the Order does not require compliance by July 1, 1979. Further, while it is recognized that EPA has the authority to approve Orders which have compliance dates that go beyond July 1, 1979 pursuant to Section 113(d)(4), the control system contemplated by the Order does not satisfy the requirements of Section 113(d)(4)(A) in that it is not a new means of emission limitation. Because of the Administrator's disapproval, the Order is not effective under Section 113(d) of the Clean Air Act.

EPA has determined that its disapproval of the Order shall be effective upon publication of this notice because of the need to immediately place National Steel Corporation; Weirton Steel Division on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) of the West Virginia State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601)

Dated: June 15, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.532:

§ 65.532 EPA disapproval of State delayed compliance orders.

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
National Steel Corp.; Weirton Steel Division Mainland Coke Plant, Coke Oven Gas Desulfurization.	Weirton, W. Va	None	Regulation X	Jan. 4, 1979	June 30, 1980

[FR Doc. 79-22226 Filed 7-17-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1249-4]

Approval of a Delayed Compliance Order Issued by West Virginia Air Pollution Control Commission to National Steel Corp.; Weirton Steel Division

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby approves a Delayed Compliance Order issued by West Virginia Air Pollution Control Commission to the National Steel Corporation; Weirton Steel Division. The order requires the company to bring air emissions from its Sinter Plant at Weirton, West Virginia into compliance with certain regulations contained in the Federally approved West Virginia State Implementation Plan (SIP). Because of the Administrator's approval, compliance with the Order will preclude suits under the Federal Enforcement and citizen suit provisions of the Clean Air Act of violations of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule takes effect on July 18, 1979.

FOR FURTHER INFORMATION CONTACT: Joseph W. Kunz, U.S. EPA, Region III, Curtis Building, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106, 215/597-8338.

ADDRESSES: A copy of the Delayed Compliance Order, supporting material, and comments received in response to a prior **Federal Register** proposing disapproval of the Order are available for public inspection and copying during normal business hours at: Air Enforcement Branch, U.S. EPA, Region III, Curtis Building, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106.

SUPPLEMENTARY INFORMATION: On January 4, 1979, the Regional Administrator of EPA's Region III Office published in the **Federal Register** Volume 44, No. 3, page 1199, a notice proposing disapproval of a Delayed Compliance Order issued by West Virginia Air Pollution Control Commission to National Steel Corporation; Weirton Steel Division. The notice asked for the submission of all public comments by February 5, 1979 on EPA's proposed disapproval of the Order. During the public comment period, the only comments on EPA's proposed action were recevied from the West Virginia Air Pollution Control Commission and National Steel Corporation. The Comments received from the Company indicated that certain data obtained as part of a joint program between National Steel Corporation and EPA Industrial Environmental Research Laboratory demonstrated that the control system to be utilized in accordance with the terms of the State Consent Order had the potential capability of complying with Regulation VII of the West Virginia State Implementation Plan. Based on the existence of such data coupled with the Company's statement that certain operating and maintenance data would be recorded and made available to EPA upon request, the Agency has subsequently determined that it's reasons for proposed disapproval are inappropriate.

Therefore, in consideration of such determination, the Delayed Compliance Order issued to National Steel Corporation; Weirton Steel Division for control of particulate emissions at its Sinter Plant is approved by the Administrator of EPA pursuant to the authority of Section 113(d) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places National Steel Corporation; Weirton Steel Division on a schedule to bring its Sinter Plant at Weirton, West Virginia into compliance as expeditiously as practicable with Regulation VII of the West Virginia Administrative Regulations of the Air Pollution Control Commission, a part of the Federally approved West Virginia State Implementation Plan. The Order also imposes interim requirements for construction and installation, along with emission monitoring and reporting requirements, which satisfy the requirements of Sections 113(d)(1)(C) and 113(d)(7) of the Act. If the conditions of the Order are met, it will permit National Steel Corporation; Weirton Steel Division to delay compliance with the SIP regulations covered by the Order until July 1, 1979. The company is unable to immediately comply with these regulations.

EPA has determined that is approval of the Order shall be effective upon publication of this notice because of the need to immediately place National Steel Corporation; Weirton Steel Division on a schedule which is effective under the Clean Air Act for compliance with the applicable requirements of the West Virginia State Implementation Plan.

(Authority: 42 U.S.C. 7413(d), 7601)

Dated: June 15, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By Adding the following entry to the table in § 65.531:

§ 65.531 EPA approval of State delayed compliance orders issued to major stationary sources.

* * * * * * *

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
*	*	*	*	*	*
National Steel Corp.; Weirton Steel Division Sinter Plant.	Weirton, W. Va	None	Regulation VII	July 1, 1979	July 1, 1979
*	*	*	*	*	*

[FR Doc. 79-22227 Filed 7-17-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1249-5]

Disapproval of a Delayed Compliance Order Issued by West Virginia Air Pollution Control Commission to National Steel Corp.; Weirton Steel Division

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of EPA hereby disapproves a Delayed Compliance Order issued by the West Virginia Air Pollution Control Commission to the National Steel Corporation; Weirton Steel Division. The Order requiring the Company to bring particulate emissions from its Mainland Coke Plant at Weirton, West Virginia into compliance with certain regulations contained in the Federally approved West Virginia State Implementation Plan (SIP), is inconsistent with the Clean Air Act.

DATES: This rule takes effect on July 18, 1979.

FOR FURTHER INFORMATION CONTACT: Joseph W. Kunz, U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, 215/597-8338.

ADDRESSES: A copy of the Delayed Compliance Order, supporting material, and comments received in response to a prior **Federal Register** notice proposing disapproval of the Order are available for public inspection and copying during normal business hours at: Air Enforcement Branch, U.S. EPA—Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

SUPPLEMENTARY INFORMATION: On January 4, 1979, the Regional Administrator of EPA's Region III Office published in the **Federal Register**, Volume 44, Number 3, Page 1198-1199, a notice proposing disapproval of a Delayed Compliance Order issued by the West Virginia Air Pollution Control Commission to National Steel Corporation; Weirton Steel Division. The notice asked for public comments by February 5, 1979 on EPA's proposed disapproval of the Order. The only comments received were from the West Virginia Air Pollution Control Commission and National Steel Corporation. The Company's comments did not provide any information which

alleviates EPA's main concern that no information had been provided upon which the Agency could determine whether or not the pushing control system contemplated by the Order would have a control performance sufficient to comply with the applicable West Virginia Regulation. In an effort to resolve such concern, EPA met with the Company on March 30, 1979 to discuss the pushing emission control system design parameters. Using the information exchanged at this meeting, EPA conducted an engineering design study which concluded that the system as proposed by the Company did not have sufficient particulate control efficiency in order to comply with the requirements of the West Virginia SIP.

Therefore, in consideration of the comments received on EPA's proposed action and the engineering analysis performed, the Delayed Compliance Order issued to National Steel Corporation; Weirton Steel Division is disapproved by the Administrator of EPA pursuant to the authority of Section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). Such a determination is based on EPA's opinion that the pushing emission control system contemplated under the Order will not result in compliance with the applicable West Virginia regulation and, therefore, the Order does not satisfy the requirements of § 113(d)(1) (B) and (D). Because of the Administrator's disapproval, the Order is not effective under Section 113(d) of the Clean Air Act.

EPA has determined that its disapproval of the Order shall be effective upon publication of this notice because of the need to immediately place National Steel Corporation; Weirton Steel Division on a schedule which is effective under the Clean Air Act for compliance with the applicable requirement(s) of the West Virginia State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: June 15, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.532:

§ 65.532 EPA Disapproval of State delayed compliance orders.

Source	Location	Order No.	SIP regulation(s) involved	Date of FR proposal	Final compliance date
National Steel Corp.; Weirton Steel Division Mainland Coke Plant.	Weirton, West Virginia.	None	Regulation VII	1/4/79	7/1/79

[FR Doc. 79-22228 Filed 7-17-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 65

[FRL 1262-8]

State and Federal Administrative Enforcement of Implementation Plan Requirements After Statutory Deadlines; Delayed Compliance Order for Mannington Mills, Inc., Salem, N.J.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule the Administrator of the U.S.E.P.A. issues a Delayed Compliance Order pursuant to Section 113(d)(1) of the Clean Air Act, as amended, 42 U.S.C. section 7401 *et seq.* ("the Act"), requiring Mannington Mills, Inc. ("Mannington Mills") to bring its vinyl floor covering manufacturing facility located at Salem, New Jersey, into compliance with certain regulations contained in the federally-approved New Jersey State Implementation Plan ("SIP"). This Order establishes a final compliance date by Mannington Mills of June 30, 1979 because of the inability of this source to comply with these regulations at this time. Source compliance with this Order will preclude suits under the federal enforcement and citizen suit provisions of the Act for violation of the SIP regulations covered by this Order.

DATES: This rule takes effect July 18, 1979.

FOR FURTHER INFORMATION CONTACT: Samuel P. Moulthrop, Attorney, General Enforcement Branch, Enforcement Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York, (212) 264–5695.

SUPPLEMENTARY INFORMATION: On May 8, 1979 the Regional Administrator of the U.S.E.P.A.'s Region II office published in the **Federal Register** (44 FR 26936) a notice setting out the provisions of a proposed Federal Delayed Compliance Order for Mannington Mills, Inc. The notice asked for public comments and offered the opportunity for a public hearing on the proposed Order. No public comments and no requests for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is issued to Mannington Mills, Inc. by the Administrator of the U.S.E.P.A. The Order places Mannington Mills on a schedule to bring its Scrubber #1 on the Vinyl I Line into compliance with Title 7, Chapter 27, Subchapter 6 of the New Jersey Administrative Code by June 30, 1979. Mannington Mills is unable to immediately comply with this regulation, which limits the permissible opacity of particulate emissions and which is a part of the federally-approved New Jersey Implementation Plan ("SIP") for the Air Quality Control Region in which the source is located.

Compliance with the Order by Mannington Mills 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 regulation covered by the Order which occurred before the Order was issued by U.S.E.P.A. or after the Order is terminated. If the Administrator determines that Mannington Mills 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.

Dated: July 12, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter 1 of Title 40 of Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.350:

§ 65.350 Federal delayed compliance orders issued under Section 113(d)(1), (3) and (4) of the Act.

The delayed compliance orders referenced below have been issued by the Administrator in accordance with Section 113(d) of the Act and with this part. With regard to each order, the Administrator has made all the determinations and findings which are necessary for issuance of the Order under Section 113(d) of the Act.

Source	Location	Order No.	Date of FR proposal
Mennington Mills, Inc.	Salem, New Jersey.	70117	5/8/79 (44 FR 26936)

SIP regulation involved	Final compliance date
N.J.A.C. 7:27-6.2	6/30/79

[FR Doc. 79-22236 Filed 7-17-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 81

[FRL 1268-6]

Air Quality Control Regions, Criteria, and Control Techniques; Attainment Status Designations: Alabama and Kentucky

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Final rule.

SUMMARY: On April 2, 1979 (44 FR 19213), the Agency proposed to change the nonattainment designation of Greenup County, Kentucky, (for sulfur dioxide), and northern Mobile County, Alabama (for particulate matter) to attainment. No comments were received in reponse to the proposed notice. These changes are made final as proposed. Greenup County, Kentucky is redesignated attainment for sulfur dioxide because a large source of that pollutant has come into compliance with emission limiting regulations. A portion of northern Mobile County is redesignated attainment for particulate matter on the basis of measured air quality data showing attainment of the national ambient air quality standards for that pollutant.

EFFECTIVE DATE: These actions are effective today, July 18, 1979.

FOR FURTHER INFORMATION CONTACT: Walter Bishop, Air Programs Branch, EPA Region IV, 345 Courtland Street, N.E. Atlanta, Georgia, 30308, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962 at 8997), Greenup County, Kentucky was designated nonattainment for sulfur dioxide. The basis for this designation was air quality modeling results for the vicinity of a non-complying source, DuPont's sulfuric acid plant. Since that time, the source has come into compliance.

Recent modeling of the plant at the allowable emission rate shows the national ambient air quality standards for SO_2 are being attained. Consequently, the Kentucky Department for Natural Resources and Environmental Protection requested on December 27, 1978, that the designation be changed to attainment. Based on EPA's finding that Kentucky's submittal is valid, this change is hereby made.

On January 19, 1979, the director of the Alabama Division of Air Pollution Control submitted air quality data showing that the national ambient air quality standards for particulate matter were not violated at the Salco and Axis sites (northern Mobile County) during the period May 1976 through October 1978, and requested that the status of the area be redesignated attainment.

(This area had been designated nonattainment on March 3, 1978 (43 FR 8962 at 8965).) EPA has verified that the data in question meets all applicable Agency criteria established to assure the validity and representativeness of quality data. Accordingly, the area is redesignated as the State requests.

The Morgan County (Alabama) nonattainment area was incorrectly identified in the April 2, 1978, proposal notice; it is in Decatur, not Huntsville. The correct identification is listed below.

On May 3, 1979, the U.S. Court of Appeals for the Fifth Circuit set aside the TSP nonattainment designation for Jefferson and Etowah Counties, Alabama, on petition by United States Steel Corporation (78-1922) and Republic Steel Corporation (78-1927). The TSP attainment status designations for these areas are being proposed for public comment in another issue of the **Federal Register.** A note is today inserted in the Alabama TSP table to identify the voided designations.

(Sections 107, 171, 301 of the Clean Air Act (42 U.S.C. 7407, 7501, 7601)).

Dated: July 11, 1979.

Douglas M. Costle,

Administrator.

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart C—Section 107 Attainment Status Designations

* * * * *

1. In § 81.301, the attainment status designation table for TSP is revised to read as follows:

§ 81.301 Alabama.

Alabama—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
That portion of Etowah County within the western section of Gadsden	*X	*X		
That portion of Jackson County surrounding TVA's Widows Creek plant	X	X		
Those portions of Jefferson County within central Birmingham and the area surrounding the Universal Atlas Cement plant	*X	*X		
That portion of Lauderdale County containing Florence			X	
That portion of Mobile County within a section of downtown Mobile	X	X		
A portion of Morgan County including portions of the city of Decatur		X		
Rest of State				X

* These designations were held invalid by the U.S. Court of Appeals for the Fifth Circuit on May 3, 1979.

* * * * * * *

2. In § 81.318, the attainment status designation table for SO_2 is revised to read as follows:

§ 81.318 Kentucky.

Kentucky—SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Boyd County	X			
That portion of Daviess County in Owensboro	X	X		
That portion of Henderson County in Henderson	X			
Jefferson County	X	X		
McCracken County	X			
Muhlenberg County	X	X		
Webster County	X	X		
Rest of State				X

[FR Doc. 79-22235 Filed 7-17-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 172

[FRL 1217-1; OPP-30031]

Experimental Use Permits for Pesticides

AGENCY: Environmental Protection Agency, Office of Pesticide Programs.

ACTION: Final rule.

SUMMARY: This rule sets forth regulations under which States may submit plans to the Environmental Protection Agency requesting authority to issue experimental use permits for pesticides. This rule also specifies the requirements which States must impose on persons seeking such permits. States receiving authority from EPA under this rule may issue experimental use permits to any person who needs to gather the data required to register a pesticide product to meet a special local need, or to any public or private agricultural research agency or educational institution within the State for the purpose of experimentation.

EFFECTIVE DATE: August 17, 1979.

FOR FURTHER INFORMATION CONTACT: P. H. Gray, Jr., Operations Division (TS-770-M), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (202) 472-9400.

SUPPLEMENTARY INFORMATION: On September 3, 1975, a notice was published in the **Federal Register** (40 FR 40545) proposing regulations to govern the issuance of experimental use permits by States. This final rule is based upon those proposed regulations and applies to the issuance of experimental use permits by States which have been authorized by EPA under section 5(f) of FIFRA to issue such permits.

Written comments on the proposed regulations were invited and were received from twelve interested parties. In addition, the proposal was distributed for review to all State pesticide control lead agencies and to the former State-Federal FIFRA Implementation Advisory Committee (SFFIAC). The proposal was amended in response to some of the comments. An amended proposal was submitted to interested persons, including the original commenters, and 19 additional comments were received. As a result, certain changes have been made in this final rule. All of the written comments received are on file with EPA and may be seen between 8:30 a.m. and 4:00 p.m. in the office of the Federal Register Section, Room 401, East Tower, Program Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C., 20460, (202) 755-8454.

As a result of the extensive public participation in the development of this regulation as described above, the Agency finds that additional notice and public comment thereon are unnecessary and would be contrary to the public interest. Thus, pursuant to the Administrative Procedures Act (5 U.S.C. 553(b)(3)(B)) there is no need to repropose this regulation.

The significant changes made in the regulation since it was proposed are discussed below, along with EPA's response to the more significant comments.

Dual Permit Systems

A new § 172.22(b) has been added to make it clear that this regulation does not affect any mechanism under State law by which a State requires that a person receiving an experimental use permit issued by EPA under FIFRA, section 5, must also obtain a State permit for the same use.

Purposes for Which Experimental Use Permits Are Issued

The proposed regulations limited the State issuance of experimental use permits to those persons gathering data needed to support a registration to meet special local needs under section 24(c) of FIFRA. Several commenters, including SFFIAC, said that authorized States should also be allowed to issue permits for certain additional purposes, including academic research done within the State, work on integrated pest management, and other experimentation concerning unexpected or unusual local problems which might not initially be intended to result in a section 24(c) registration.

At the time the regulations were proposed, FIFRA section 5(a) strictly limited the purpose of issuance of federal and, by implication, State experimental use permits to "accumulat(ion of) information necessary to register a pesticide * * *" Since that time, however, Congress has authorized the issuance of Federal experimental use permits to agricultural research agencies and educational institutions for general research purposes (FIFRA section 5 (g)). Accordingly, the Agency has also modified this final rule to authorize States to issue experimental use permits to educational institutions or agricultural research agencies for purposes of experimentation, as well as for the accumulation of information necessary to support a registration under section 24(c) of FIFRA.

Accordingly, EPA has broadened the scope of this regulation and has changed §§ 172.20, 172.23 and 172.24 to provide for State issuance of experimental use permits for such additional purposes.

One person commenting on the revised draft rule protested the limitation in the final sentence of the definition of "Public or Private Agricultural Research Agency or Educational Distribution" (§ 172.21(a)(1)), excluding researchers working on behalf of pesticide distributors. The commenter cited this as an unnecessary restriction. EPA believes, however, that the definition as stated is in accordance with the intent of Congress. Research agencies or educational institutions not coming within the framework of the definition may obtain a State permit under § 172.24(b)(1), or may apply for a Federal permit.

Establishment Registration Requirement

Subsection 172.22(d) of these regulations requires that pesticide

products be produced under State experimental use permits only in federally registered establishments (except when produced solely for application by the permittee). One commenter pointed out that some permittees who will be producing State experimental use pesticides are not familiar either with EPA's definition of pesticide production or with establishment registration requirements under section 7 of FIFRA. The commenter was concerned that such permittees might inadvertently violate these requirements, even though they are set forth in the regulations implementing section 7. Thus, EPA recommends that States authorized to issue experimental use permits advise each permittee of EPA's establishment registration requirements in advance of production under the permit, and provide the permittee with a copy of EPA's establishment registration regulations (40 CFR Part 167).

The same commenter raised a second related concern about universities which might be simultaneously involved in more than one experimental use program and where different departments of the same university might be producing pesticide products, and thus become subject to EPA's establishment registration requirements. In such cases, the Agency has decided that a single registration for the university will be sufficient as long as production for each experimental use product is properly noted on the annual Pesticides Report form.

State Inspection Authority

One commenter suggested that § 172.24(c)(3), concerning State inspection of premises involved in permit programs, was too vague. This proposed paragraph has been modified and included as a requirement for State plan approval at § 172.23(c)(1)(i)(E) of this final rule. It has been amended to clarify that the State's authority to enter premises need extend only to permittees' and cooperators' premises, and to specify purposes for which entry may be sought by the State.

On the same topic, another commenter suggested that FIFRA might not authorize such a right of entry requirement. EPA has concluded that such authority should be required as a condition for approval of a section 5(f) plan. Authority for the designated State agency to enter premises, as described in § 172.23(c)(1)(i)(E), is a necessary and reasonable means of adequately enforcing State law and the State plan. EPA has a statutory duty to ensure that section 5(f) plans can be implemented by a State effectively and consistently with the purposes of FIFRA. Therefore, the Agency has resolved to promulgate § 172.23(c)(1)(i)(E).

Another commenter suggested that EPA should require States to obtain consent to State entry, for inspection purposes, from each applicant for a State permit, as a condition to issuance of such a permit. As stated above, EPA believes that States must have sufficient authority under State law to enter permittees' and cooperators' premises for specified purposes, in order to be authorized to issue permits under this rule. For States with such legal authority, prior written consent from permit applicants would be superfluous. Therefore, EPA does not consider it necessary to amend the rules as the commenter suggested. However, EPA encourages permit applicants to indicate in their applications their consent to entry by State officials for legitimate inspection purposes.

Several additional comments were received concerning the requirements for State right-of-entry authority in connection with State plans for the issuance of EUPs. One commenter suggested dropping the phrase "or by other legal means", and limiting State inspection authority to entry by consent or warrant. Since this language merely leaves open to the States the option to choose various approaches to right-of-entry authority, EPA did not adopt the commenter's suggestion. EPA's decision to retain this language is also based on the fact that the courts have recognized that under certain circumstances entry without a warrant or without consent is justified and not unconstitutional. EPA believes that States who wish to take such an approach, consistent with State law, should have that option.

Limitations on Issuance of State Experimental Use Permits

Section 172.24 has been modified to list limitations applicable to all State permits. Under § 172.24(c)(2), permits may not be issued for pesticide products containing active or inert ingredients which are currently subject to an EPA cancellation or suspension of registration order, or which are subject to a notice of intent to cancel or suspend, or which are not found in any EPA registered product. However, States may issue permits for products containing ingredients subject to the EPA administrative review process known as Rebuttable Presumption Against Registration, provided that no notice of intent to cancel or suspend the registrations of such ingredients has been issued.

In response to several comments, a clause has been inserted in § 172.24(c)(2) authorizing a State to issue a permit for a product containing a cancelled or suspended ingredient intended for a use or in a formulation *not* specifically considered during cancellation or suspension proceedings for such an ingredient: *Provided,* That the State consults with EPA prior to issuing such a permit.

However, the Agency has decided to refuse the request of one commenter to delete the prohibition in § 172.24(c)(2)(i) on issuance of a permit for a product containing an *inert* ingredient not contained in any federally registered product, because EPA believes it to be in accordance with public policy that it review any ingredient, whether active or inert, for safety to public health and the environment, prior to the appearance of such an ingredient in a non-federally registered product. Thus, the Agency's response to several commenters who requested authority for States to issue permits for new active ingredients is that the proper type of permit to request in such cases is a Federal permit under section 5(a–e) of the amended FIFRA.

One commenter also protested the prohibition on States issuing permits for research on pesticide uses denied registration under section 3(c)(6) of the amended FIFRA. EPA believes that a greater degree of Federal control is needed in such cases, in order to protect man and the environment, and thus prospective permittees under these circumstances should be required to apply for a Federal permit.

Section 172.24(c)(3) requires that permits be issued by the States for use only of the amount of pesticide necessary to gather data or complete the experiment. As one commenter stressed, the determination of the necessary amount is a decision to be made by the State, based on its knowledge of the particular conditions of use.

Publication Requirements

A commenter noted that users of pesticides under State experimental use permits should be listed in the **Federal Register.** EPA does not believe this procedure is necessary, but feels that it would, rather, add to the administrative burden of implementing section 5(f) without creating sufficient incremental benefit to human health and the environment. EPA will, however, continue to publish notification of State actions under section 5(f), as it has been doing in the case of Federal experimental use permits under section 5(a).

Another commenter suggested that in order to eliminate unnecessary Federal Register notices, amendments to experimental use permits be dropped from the proposed list of items to be published. The Agency accepts this suggestion as a means of eliminating an unnecessary procedure which does not increase protection of public health or the environment. Accordingly, the regulations now require publication of Federal Register notices in seven instances: (1) State issuance of experimental use permits; (2) EPA receipt of State plans requesting authorization to issue experimental use permits; (3) approval of State plans; (4) notice of intention to reject State plans; (5) rejection of State plans; (6) notice of intention to revoke State authorization to issue experimental use permits; and (7) revocation of State authorization to issue experimental use permits.

On a similar matter, a third commenter suggested the deletion of the requirement for publication in the Federal Register of notices of State issuance of permits and amendments of permits. The commenter felt that such notices would be unnecessary, given that permits would be issued only in relation to "special local needs" in the States. The commenter also felt that publication of such notices might be "anti-competitive."

In response, EPA would again point out that under this final rule publication of notices of amendments to State permits is not required. However, with regard to notices of issuance of State permits, it should be observed that States with approved section 5(f) plans are no longer limited to "special local needs" as grounds for issuing such permits. In addition, even where research related to "special local needs" is the sole reason for issuing a permit, the program implemented under the permit may have interstate or nationwide impacts justifying publication of a notice in the Federal Register, despite the remote possibility that such a notice would harm business interests. Thus, this publication requirement is both reasonable and consistent with EPA's general policy of public disclosure of significant actions taken under Federal law.

A fourth commenter urged that notices of application for, or requests for amendments to, State experimental use permits be provided to EPA within 10 days of receipt and published in the Federal Register. The Agency does not agree with the need for such publication, if the State programs are to operate in a timely and efficient fashion. EPA's authority to revoke permits, and, if necessary, to terminate a State program not in the public interest, provides sufficient safeguard for public health and the environment without the additional procedure of publication in the Federal Register.

Quantity of Pesticide To Be Used

One commenter suggested that State agencies should impose limitations in the permit on quantity, as well as on other parameters of pesticide use. The commenter also urged that these regulations establish upper limits on the quantity of pesticide which may be used, and the size of the area which may be treated. EPA agrees with the first request, noting that quantity was inadvertently omitted from the proposed parameters of pesticide use. Accordingly, § 172.25(e) now contains such a requirement. However, the Agency believes that establishing by regulation an upper limit on quantity, which is only one of several important parameters, could promote applications for permits to use quantities of pesticide in excess of that necessary to achieve the object of the permit. Also, such upper limits might prove to be too low in some cases, particularly those involving forestry use. Therefore, the quantity used and acreage treated should be consistent with the objectives of the program. Should abuse by the permittee occur, EPA and the State, of course, retain the authority to revoke the permit.

Possible Circumvention of Federal Experimental Use Permit Requirements

One commenter suggested that some experimenters might attempt to circumvent Federal experimental use permit requirements (40 CFR 172.1–172.11) in cases where a Federal permit should be obtained, by acquiring instead permits from several adjacent States certified under this rule. EPA recognizes the potential for misuse of the opportunities presented to experimenters by this rule. It would, however, be unfair to experimenters with legitimate needs for multiple State permits to prohibit more than one State from issuing a permit for a particular program. Therefore, the Agency intends to prevent abuse of this rule by carefully reviewing, under § 172.26, permits issued by several States for a single program. If EPA discovers that State permits have been issued in a situation where a Federal permit is more appropriate, the Agency may revoke some or all of the State experimental use permits under the authority granted by § 172.26(c)(1)(iv).

Permit Revocation

A commenter urged that the regulations provide that a State permit be considered revoked during any hearing requested by the permittee to contest revocation. EPA had intended that such a procedure would be followed in all revocation actions, and has modified § 172.26(c)(6) to state this explicitly.

Two commenters stated that EPA's authority to revoke State experimental use permits should be exercised through the designated State agency rather than by direct contact between EPA and the permittee. EPA intends to cooperate fully with States in cases involving revocation of permits. However, the Agency believes that it must retain authority to revoke a State permit directly, particularly in a case involving imminent hazard to man and the environment. This position is consistent with EPA procedures under sections 5(a)–(e) of the Act.

One commenter recommended that this rule be amended to require EPA to give a permit holder prior notice of the Agency's intent to revoke an experimental use permit. EPA agrees that a permit holder should be informed of any action being taken against him. However, this purpose will be accomplished without amendment of this rule, in the same fashion as is done for holders of Federal permits. The Agency intends for the State to notify permit holders of, and to discuss the reasons for, contemplated revocation actions prior to revoking any permits under section 5(f), unless continued use under the permits would cause unreasonable adverse effects on man or the environment. In the latter case, EPA will revoke the permit immediately under the authority granted in § 172.26 of this rule. In either case, however, § 172.26(c)(6)–(8) guarantees the permit holder the right to a conference with the Administrator to challenge any revocation order issued by the Administrator. In addition, § 172.26(c)(9) confirms the permittee's right to judicial review of any final decision by the Administrator to revoke a permit.

Another commenter noted that a permit could be revoked if "its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment." The commenter suggested that the regulation specify a period of time within which EPA would determine, prior to initiation of the experimental program, if the test program approved by the State met the requirements of § 172.25(c)(1)(ii) (in the final rule, § 172.26(c)(1)(ii)). EPA

believes that such a procedure would be both time consuming, delaying implementation of the test program, and duplicative of State review efforts. EPA's basic permit revocation authority provides a sufficient additional safeguard for public health and the environment.

Another commenter suggested that EPA should retain the option of requiring that the treated commodity be destroyed under § 172.26(c)(1)(iii) instead of revoking the permit. The Agency believes it must retain authority to revoke a permit under such circumstances. Although EPA does not have the authority to order destruction of a commodity, the permittee may avoid having his permit revoked by destroying the commodity himself. The same commenter protested as excessive the requirement in § 172.26(c)(5) that EPA notify the Food and Drug Administration of a permit revocation if the permit involved the use of a pesticide on food or feed. The Agency accepts this comment, and has deleted this provision from the final regulation. However, EPA retains the authority to notify FDA of any permit revocation if the Agency believes such action desirable.

Finally, one commenter suggested that in those situations where a State's authority to issue permits is revoked by EPA, the regulation should require that a statement be included which would list the status of State permits in effect at the time of revocation. Instead of taking such action, the Agency has decided to add a sentence to the revocation of State authority provision (now § 172.23(d)(2)) stating that permits issued prior to the revocation shall remain valid, unless revoked by EPA, until they expire or until three years from the date of revocation of State authority, whichever comes first. This provision should clarify the status of permits, in the event of revocation of State authority, to the advantage of all permittees.

Reports

Two commenters suggested that the requirement for State agency reports to EPA should be more limited than in the proposed rule. On the other hand, one EPA Regional commenter suggested the inclusion of several categories of information as part of regular reporting to EPA. EPA does not propose to burden the States with excessive reporting requirements. However, the Agency believes it must retain a certain flexibility in this area. Therefore, the final language in § 172.26(b) combines one regular, but minimal, reporting requirement with a requirement for special reports when requested by EPA or when adverse effects to man and the environment occur as a result of pesticide usage.

Definition of "Special Local Needs"

Another commenter suggested that a definition be added to this rule to clarify what experimental uses are authorized by a permit to conduct research leading to registration for "special local needs" (as used in §§ 172.24(b)(1) and 172.24(c)). EPA recognizes that a definition of this expression might be useful to persons conducting such research. However, no such definition can be included in this rule at this time. Recent amendments to section 24(c) have substantially expanded State authority to register pesticides for "special local needs." These amendments require a change in EPA's interpretation of that term. The Agency expects within the next few months to publish new proposed section 24(c) regulations which will probably include a definition of "special local needs" applicable to research. Until then, States should exercise their discretion in determining whether or not an EUP is necessary to develop data for a State "special local needs" registration.

Tolerances

There was no specific discussion in the 1975 proposed regulations of the requirement for tolerances for pesticides to be used on or in food or feed. However, this requirement was implied. A new § 172.24(d) has been added which specifically addresses the possible alternatives insofar as tolerances are concerned. There is no change in the intent or effect of the rule.

One comment was received relating to the requirement in the initial draft of § 172.24(d) for a tolerance, or exemption from the requirement of a tolerance, whenever an experimental use pesticide is to be used in or on food or feed. The commenter wished to have included an alternative provision authorizing the submission of evidence to show that the proposed experimental program would not reasonably be expected to result in residues of the pesticide in or on food or feed, and that therefore no tolerance was necessary in such cases. The so-called "no residue" concept as it applies to food or feed was phased out more than 10 years ago. EPA's position is that any pesticide used in or on food or feed will reasonably be expected to result in residues of such pesticide. Therefore, some sort of legal residue clearance under the Federal Food, Drug and Cosmetic Act is required. Where such residues are below the level of detection of the applicable analytical method, a tolerance is established at the level of sensitivity of the method. Therefore, the requested change would be inappropriate.

Disposal

The proposed regulations inadvertently omitted mention of disposal of pesticides and pesticide containers under, and following termination of, a State permit. A new § 172.25(g) has been added to address this need. Again, this addition does not alter the intent or effect of the rule, but merely provides a reference to existing federal disposal requirements, including the requirements of the Resource Conservation and Recovery Act (Pub. L. 94–580; 90 Stat. 2795; 42 U.S.C. 6901 *et seq.*) (RCRA) and the recommended disposal procedures in 40 CFR Part 165.

General

Concern has been expressed by several State regulatory officials that the newly added § 172.24(b) would require educational institutions and agricultural research agencies to obtain a State experimental use permit prior to all experiments involving pesticides. In response, EPA would point out that § 172.22(a) provides that State permits are not required in those situations (e.g., small plot pesticide research) described in § 172.3 of the regulations pertaining to Federal experimental use permits. These exemptions apply to educational institutions and to agricultural research agencies, as well as to all other persons subject to this rule. EPA believes that these exemptions afford legitimate experimenters adequate opportunity to perform pure research free from unnecessary procedural requirements.

Miscellaneous

Certain minor changes in this regulation have been made since it was proposed for purposes of greater clarity or to achieve consistency with recent amendments to FIFRA. These changes are not of such significance to require being specifically addressed in the preamble.

Regulatory Analysis

EPA has determined that this rule does not require a Regulatory Analysis under Executive Order 12044. However, in accordance with FIFRA section 25(a)(2)(B), the Agency carried out an Agricultural Regulatory Impact Analysis, which determined that there would not be any significant national effects on production and prices of agricultural commodities or retail food

prices as a result of promulgation of this rule.

Statutory Review

The U.S. Department of Agriculture has reviewed the final regulation in accordance with section 25(a) of FIFRA and concurs without comment with its publication in the Federal Register.

The regulation was also submitted for scientific review and comment to the FIFRA Scientific Advisory Panel (SAP) in accordance with section 25(d) of FIFRA. However, the SAP, in a memorandum dated January 29, 1979, to the EPA Deputy Assistant Administrator for Pesticide Programs, waived such review and comment on the grounds that "the regulation was procedural in nature and did not involve scientific matters which would directly impact on health and the environment."

Regulatory Review

Section 2(d)(8) of Executive Order 12044 requires that a plan for evaluating the regulation after its issuance be developed. EPA's plan for evaluating this rule calls for an analysis of data submitted by States in their reports required under § 172.26(b) of this rule. This evaluation will be performed within five years from the date of promulgation of this rule, and a determination will then be made, based upon such evaluation, as to whether modification of the rule is necessary.

Dated: July 6, 1979.

Barbara Blum,

Acting Administrator.

PART 172—EXPERIMENTAL USE PERMITS

40 CFR Part 172 is amended by establishing a new Subpart B, to read as follows:

Subpart B—State Issuance of Experimental Use Permits

Sec.

172.20 Scope.
172.21 Definitions.
172.22 General.
172.23 State plans.
172.24 State issuance of permits.
172.25 Administration of State program.
172.26 EPA review of permits.

Authority: Secs. 5(f), 25(a), Federal Insecticide, Fungicide, and Rodenticide Act as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Subpart B—State Issuance of Experimental Use Permits

§ 172.20 Scope.

This subpart sets forth regulations governing State issuance of experimental use permits pursuant to section 5(f) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA). It also sets forth regulations governing authorization by the Administrator of State experimental use permit programs.

§ 172.21 Definitions.

(a) Terms used in this subpart shall, with the exception of those terms defined below, have the meaning set forth in FIFRA and in § 172.1.

(1) "Public or Private Agricultural Research Agency or Educational Institution"—means any organization engaged in research pertaining to the agricultural use of pesticides, or any educational institution engaged in pesticides research. Any research agency or educational institution whose principal function is to promote, or whose principal source of income is directly derived from, the sale or distribution of pesticides (or their active ingredients) does not come within the meaning of this term.

(2) "Designated State Agency"—means the State agency designated by State law or other authority to be responsible for registering pesticides to meet special local needs.

§ 172.22 General.

(a) Experimental use permits are not required under this rule in those situations described in § 172.3 of Subpart A pertaining to Federal experimental use permits.

(b) Subpart B is not applicable to experimental use permits issued by a State, as required by State law, to a permittee who already holds a valid Federal experimental use permit issued under Subpart A for the same purpose, or who is not required to obtain a permit under this rule.

(c) Pesticide products used under experimental use permits may not be sold or distributed other than through participants, and, if sold or distributed through participants, may be used only at an application site of a cooperator and in accordance with the terms and conditions of the experimental use permit.

(d) Establishments in which pesticide products under State experimental use permits are produced shall be registered as required by 40 CFR 167.2(a) and producers of such products shall maintain books and records as required by 40 CFR 169.2.

(e) Pesticide products and their containers used under this rule must also be packaged, stored, transported, used, and disposed of in accordance with all applicable Federal laws and regulations, including the Resource Conservation and Recovery Act of 1976 as amended (Pub. L. 94–580; 90 Stat. 2795; 42 U.S.C. 6901 *et seq.*) (RCRA), and rules thereunder.

§ 172.23 State plans.

(a) *Submission.* (a) A State may, by submitting a State plan, request the Administrator to authorize the designated State agency to issue experimental use permits under section 5(f) of FIFRA.

(2) A State shall request authorization to issue experimental use permits by having the Governor or Chief Executive Officer or his designated agent submit a State plan in writing to the Administrator.

(b) *Contents.* A State plan shall include—

(1) A designation of the State agency responsible for the administration of the State experimental use permit program.

(2) An opinion of the State attorney general or the legal counsel of the designated State agency that the State has the requisite legal authorities as set forth in paragraph (c)(1)(i) of this section, accompanied by copies of the applicable State laws and regulations.

(3) A description of procedures that the designated State agency will follow:

(i) To review experimental use permit applications, to ensure that experimental use permits will be issued in accordance with the terms and conditions of the authorization, FIFRA, and this subpart; and

(ii) To supervise use pursuant to the permits, and to ensure that permits are used in accordance with their terms and conditions, FIFRA, and this subpart.

(c) *Criteria for EPA acceptance of State plan.* (1) The Administrator shall grant authorization to issue experimental use permits if the State plan establishes that the designated State agency—

(i) Has adequate legal authority under State law to implement the plan, including authority:

(A) To issue experimental use permits, subject to limitations necessary for the protection of public health and the environment;

(B) To supervise the use of a pesticide pursuant to an experimental use permit, as provided in § 172.25(c);

(C) To deny an experimental use permit if it determines that a permit is not justified, or that the issuance of the permit would cause unreasonable adverse effects on the environment;

(D) To amend or revoke an experimental use permit, if the designated State agency finds that:

(*1*) The terms and conditions of the permit are being violated, or are

inadequate to avoid unreasonable adverse effects on the environment;

(2) Any required tolerance under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) has been revoked by EPA, or any exemption from the requirement for tolerance has been withdrawn by EPA; or

(3) A failure by the permittee or any cooperator to meet any other provision of FIFRA or this subpart has occurred;

(E) To enter, by consent or by warrant or by other legal means, in connection with an experimental use permit, a permittee's or cooperator's premises at reasonable times in order to sample or inspect any pesticides used or property treated, to inspect any equipment or records kept, or to observe any activities conducted, as necessary to enforce compliance with State law, the terms of the permit, and this subpart;

(F) To comply in all other respects with the requirements of this subpart, including labeling requirements; and

(ii) Utilizes procedures for the review of each permit which are adequate to ensure that the State program will be administered in accordance with the purposes of FIFRA and this subpart.

(2) After receiving a State plan, EPA shall publish a **Federal Register** notice announcing the fact and inviting interested parties to comment thereon.

(d) *Approval, rejection, and revocation.* (1) EPA shall approve or reject the State plan within 90 days after receipt of all information necessary for final review of the plan, including copies of effective statutes and regulations which satisfy the requirements of this subpart.

(2) The Administrator may at any time revoke the authorization of a State to issue experimental use permits if he determines that the designated State agency has not complied with the requirements of this subpart or with the terms and conditions of such authorization. State experimental use permits issued prior to the revocation of authority shall remain valid until they expire or until three years from the date of revocation of the State's authority, whichever comes first, unless sooner revoked by EPA under § 172.26(c) of this subpart.

(3) Notices of approval, rejection, and revocation shall be published in the **Federal Register**, as well as the basis for such approval, rejection, or revocation.

(4) Prior to rejecting or revoking authorization, the Administrator shall notify the State in writing of his intention to take such action, along with the basis for such action, and shall afford the State the opportunity for a hearing, and time to take corrective action.

§ 172.24 State issuance of permits.

(a) *General.* Upon approval of a State plan by the Administrator under § 172.23, the designated State agency is authorized to issue, amend, renew, deny or revoke experimental use permits subject to the terms of the authorization and these regulations.

(b) *Authority.* A designated State agency may issue an experimental use permit—

(1) To any person for the purpose of gathering the data necessary to support the State registration of a pesticide to meet special local needs under section 24(c), FIFRA.

(2) To any agricultural research agency or educational institution conducting work within the State for the purpose of experimentation:

(i) Which is done within the State; and

(ii) Which is not directly intended to result in the registration of a specific pesticide product.

(3) For use of a restricted use pesticide only if the pesticide is to be used by, or under the direct supervision of, an applicator certified in accordance with section 4 of FIFRA.

(c) *Limitations.* (1) In the case of applicants who need to gather data required to register a pesticide product to meet a special local need under section 24(c) of FIFRA, a State may only issue experimental use permits for the types of pesticide products and uses which it has authority to register under section 24(c).

(2) A State may not issue an experimental use permit under § 172.24(b)(1) or § 172.24(b)(2) for any of the following:

(i) A product containing an active or inert ingredient not contained in any EPA-registered product;

(ii) A product containing an active or inert ingredient which is currently subject to an EPA cancellation or suspension of registration order, or which is currently subject to an EPA notice of intent to suspend or cancel registration because of human health, environmental or efficacy considerations; except that the State may issue a permit for such a product for a purpose or in a formulation—

(A) Which was not specifically considered in, or which is not subject to, such suspension or cancellation proceedings, after consultation with appropriate EPA officials; or

(B) Which was specifically considered during such proceedings but not suspended, cancelled, or subjected to a notice of intent to suspend or cancel;

(iii) A use of a product which has been the subject of a notice of denial of registration published in the **Federal Register** pursuant to section 3(c)(6) of FIFRA and 40 CFR 162.11(a) and (b); or

(iv) A use of a product which may involve use in or on food or feed other than as authorized under § 172.24(d), *Requirement of tolerance.*

(3) A State may not issue an experimental use permit for use of a pesticide product in an area or in an amount in excess of that necessary to accomplish the purposes for which the permit was issued under paragraph (b) of this section.

(d) *Requirement of tolerance.* If the experimental use pesticide is to be used in or on food or feed, the applicant must—

(1) Submit evidence that:

(i) A tolerance or exemption from the requirement of a tolerance has been established for residues of the pesticide in or on such food or feed under section 408 of the Federal Food, Drug and Cosmetic Act, or a regulation established under section 409 of the Act; and

(ii) The proposed program would not reasonably be expected to result in residues of the pesticide in or on such food or feed in excess of that authorized under section 408 of the Federal Food, Drug and Cosmetic Act, or a regulation established under section 409 of the Act; and

(iii) All inert ingredients in the pesticide are exempted from the requirement of a tolerance under the appropriate section of 40 CFR Part 180, Subpart D; or

(2) Certify that the food or feed derived from the experimental program will be destroyed or fed only to experimental animals for testing purposes, or otherwise disposed of in a manner which will not endanger man or the environment. The method of destruction or disposal shall be described in the application for the permit.

§ 172.25 Administration of State programs.

(a) *General.* State experimental use permit programs shall be consistent with the Federal experimental use permit program, as set forth in Subpart A of 40 CFR Part 172.

(b) *Procedures leading to issuance.* An application for an experimental use permit shall be made in writing, and shall contain sufficient information, including a confidential statement of formula for any new product, to enable the State to determine whether use pursuant to the permit would be in accordance with the purposes of FIFRA and this subpart.

(c) *Labeling.* (1) New products shall bear labeling satisfying the requirements of § 172.6(a), except that the prominent statement "For Distribution and Experimental Use Only Within (State)" shall be used in place of "For Experimental Use Only". The designated State agency may approve, as directions for use on labeling, the experimental program, provided such program is to be distributed with the product.

(2) The designated State agency may permit an EPA or State registered pesticide to be used under an experimental use permit with supplemental labeling as approved by the State agency. In exercising this discretion, the designated State agency shall ensure that the supplemental labeling and the registered label together satisfy the requirements of § 172.6(a).

(d) *Duration.* State experimental use permits shall be issued for a specified period of time, not to exceed three years, depending upon the nature of the pest problem and the requirements of the testing program submitted. The designated State agency may renew, extend or amend the stated duration of a permit, if circumstances warrant.

(e) *Limitations.* The designated State agency shall impose such limitations in the permit as are necessary to protect health and the environment, including limitations on quantity, sites, area, disposal, and other aspects of pesticide use.

(f) *Program surveillance and reporting of data.* (1) The permittee shall supervise the test program and evaluate the results of testing at each site of application. The designated State agency shall require the permittee to report to it immediately any adverse effects resulting from use of, or exposure to, the pesticide.

(2) During the course of the program, the designated State agency shall require the permittee to submit such reports (both special and periodic) as are necessary to supervise effectively the progress of the program to prevent unreasonable adverse effects on man or the environment. The designated State agency shall also require the permittee to submit a final report at the conclusion of the program. Where applicable, such reports shall also be made available to the U.S. Department of Agriculture, Food Service and Quality Service (FSQS), as required by § 172.8(c).

(g) *Disposal.* All pesticides and pesticide containers, whether disposed of during the course of a State permit or remaining at the termination of a permit, must either be:

(1) Disposed of in accordance with 40 CFR Part 165 and a disposal plan approved as part of the experimental program; or,

(2) Returned to the permittee for storage or disposal in accordance with 40 CFR Part 165 and the requirements of RCRA and rules thereunder; or,

(3) If the product is currently registered, used in accordance with the registered label.

§ 172.26 EPA review of permits.

(a) *Notification of State action.* (1) Within 10 days after the issuance of an experimental use permit, the designated State agency shall notifiy EPA of the action by forwarding to the appropriate EPA Regional Office a copy of the permit, a description of the experimental program to be conducted under the terms of the permit, a copy of the approved labeling, and a copy of the confidential statement of formula for any new product.

(2) Within 10 days after amendment or revocation of an experimental use permit by a State, the designated State agency shall notify the appropriate EPA Regional Office in writing of the amendment or revocation. The notice shall include a brief explanation of the reason for the amendment or revocation. If amendments to permits include changes in the approved labeling, the designated State agency shall also forward a copy of the amended labeling.

(3) EPA shall give notice in the **Federal Register** of State issuance of experimental use permits.

(b) *Reports.* The designated State agency shall submit the following reports to EPA:

(1) An annual report covering the number of permits issued, the names and addresses of permittees, the names of the products covered by permits, and the State permit numbers issued;

(2) Reports, as requested by EPA, containing any information that EPA may determine necessary to ensure that a State has acted in compliance with provisions of FIFRA and this subpart; and

(3) Reports of any serious adverse effect(s), as soon thereafter as possible, from use of, or exposure to, a pesticide used pursuant to an experimental use permit.

(c) *Revocation by EPA.* (1) The Administrator may revoke an experimental use permit issued under this Subpart if he finds:

(i) That its terms and conditions are being violated;

(ii) That its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment;

(iii) That new evidence demonstrates that any tolerance or food additive regulation upon which the permit is based will be inadequate to protect the public health, or that any exemption from the requirement for a tolerance or food additive regulation is no longer appropriate; or

(iv) That a failure by the permittee to meet any other provisions of FIFRA or this subpart has occurred.

(2) The Administrator shall, prior to revoking a State experimental use permit, consult with the State agency which issued the permit, except in cases where continued use of the pesticide under the permit would create an imminent hazard to man or the environment.

(3) The Administrator shall notify the designated State agency, in writing, of the revocation, and the State agency shall notify the permittee, also in writing, of the revocation.

(4) The permittee shall notify all participants of the revocation within 10 days after he receives notice of revocation.

(5) The revocation of a permit shall not preclude the Administrator from initiating civil or criminal sanctions for violations of the permit conditions or other violations, as authorized by law.

(6) If a permittee wishes to contest the revocation of a State experimental use permit, he shall, within 30 days after receipt of notice of such revocation, file with the Administrator a written request for an opportunity to confer with the Administrator or his designee. The revocation of the permit shall remain effective pending the outcome of any conference requested under this paragraph.

(7) If a permittee requests a conference under paragraph (c)(6) of this section, the Administrator shall provide the permittee:

(i) With information as to the time, place and nature of the conference, and of the matters of fact and law asserted by the Agency as grounds for the revocation action;

(ii) An opportunity to offer a written statement of facts, explanations, and arguments relevant to the revocation action;

(iii) All other procedural opportunities to which the permittee may be entitled by law.

(8) The Administrator shall notify the affected permittee and State Agency, in writing, of his final decision on the revocation matter as expeditiously as possible and shall attempt to do so within 30 days after the conclusion of a conference conducted under paragraph (c)(7). The Administrator shall also

provide the permittee and the State agency with a written statement of the reasons for his decision, which shall take into account the evidence presented pursuant to paragraph (c)(7)(ii) of this section.

(9) A decision to revoke a permit under paragraph (c)(8) of this section is a final Agency action subject to judicial review as provided by law.

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 4

[Circular No. 2448]

Department Hearings and Appeals Procedures; Grazing Procedures

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This rulemaking amends the Department's hearings and appeals procedures pertaining to grazing proceedings. The amendment makes the appeal regulations consistent with the revised grazing administration regulations in 43 CFR Part 4100, that were published in the Federal Register as final rulemaking on July 5, 1978.

DATE: Effective August 17, 1979.

ADDRESS: Director (210), Bureau of Land Management, 1800 C Street, NW., Washington, DC 20240

FOR FURTHER INFORMATION CONTACT: Maxwell T. Lieurance, 202 343-6011.

SUPPLEMENTARY INFORMATION: The principal author of this final rulemaking is David Little of the Division of Range, Bureau of Land Management assisted by the Division of Legislation and Regulatory Management, Bureau of Land Management and the Office of the Solicitor, Department of the Interior.

Proposed rulemaking was published in the Federal Register on November 19, 1976, following publication on July 26, 1976, of proposed rulemaking on grazing administration and trespass. The proposed rulemaking on grazing administration and trespass required that changes be made in the Department's hearings and appeals procedures. Proposed rulemaking for grazing administration and trespass was again published on July 8, 1977, to include changes required by the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)

Under the existing regulations, applicants for grazing use and licensees and permittees on public lands administered under section 3 of the Taylor Grazing Act can appeal decisions that adversely affect them to an administrative law judge for a hearing. Decisions of an administrative law judge can be appealed to the Interior Board of Land Appeals. Applicants for grazing use and lessees of public lands administered under section 15 of the Taylor Grazing Act can appeal decisions adversely affecting their interest to the Interior Board of Land Appeals only. They cannot appeal to an administrative law judge, although the Interior Board of Land Appeals does have the discretion to assign or refer such cases to an administrative law judge for a hearing. Comments were invited for 30 days ending December 20, 1976. Two letters of comment were received. These letters have been reviewed and analyzed. The following summarizes the comments and suggestions received and the action taken on them.

It was suggested that the regulations provide that appeals be submitted directly to the Hearings Division, Office of Hearings and Appeals, Salt Lake City, Utah, by the authorized officer instead of forwarding the appeals to the State Directors for submission to the Hearing Division. This suggestion was not adopted. The appeals filed in the District Offices of the Bureau of Land Management are forwarded to the State Directors because it is at this level that the appeals are referred to the Field Solicitors. The Field Solicitors and the State Office resource specialists assist the Districts within the State in preparing for hearings on appeals.

As suggested, an administrative law judge will continue to set the dates and times for hearings. However, arranging for the place of the hearings and notifying the appellants of the hearings will continue to be the responsibility of the District Managers and not the administrative law judge, as suggested. The District Managers are in a better position to make the local arrangements and issue the notification of hearings.

Section 4.474 was changed to provide that the State Directors, and not the adversely affected parties, must present their case first following the opening statement of a hearing in the case of a show cause. In the case of appeals of decisions of the authorized officer, the appellants generally present their case first following the opening statement of a hearing.

One comment reflected concern about appealing decisions to an administrative law judge instead of going directly to Federal Court. Section 9 of the Taylor Grazing Act provides that, "the Secretary of the Interior shall provide appropriate rules and regulations for local hearings on appeals from the decisions of the administrative officer in charge * * *". These regulations provide for the local hearings. They also provide for exhaustion of administrative remedies before a case can be taken to Federal Court.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Editorial changes and corrections have been made as necessary and suggested changes have been made to eliminate redundancies.

Under the authority of the Taylor Grazing Act of 1934, as amended (43 U.S.C. 315, 315a-315r), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Part 4, Subtitle A, Title 43 of the Code of Federal Regulations is amended as set forth below.

Guy R. Martin,

Assistant Secretary of the Interior.

July 13, 1979.

1. Section 4.410 is amended by changing the reference from "Part 4110" to "Part 4100."

2. Sections 4.470 through 4.478 are amended to read as follows:

Grazing Procedures (Inside and Outside Grazing Districts)

§ 4.470 Appeal to administrative law judge; motion to dismiss.

(a) Any applicant, permittee, lessee, or any other person whose interest is adversely affected by a final decision of the authorized officer may appeal to an administrative law judge by filing his appeal in the office of the authorized officer within 30 days after receipt of the decision. The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision of the authorized officer is in error. All grounds of error not stated shall be considered as waived, and no such waived ground of error may be presented at the hearing unless ordered or permitted by the administrative law judge.

(b) Any applicant, permittee, lessee, or any other person who, after proper notification, fails to appeal a final decision of the authorized officer within the period prescribed in the decision, shall be barred thereafter from challenging the matters adjudicated in that final decision.

(c) When separate appeals are filed and the issue or issues involved are common to two or more appeals, they may be consolidated for purposes of hearing and decision.

(d) The authorized officer shall promptly forward the appeal to the State Director. Within 30 days after his receipt of the appeal the State Director may file on behalf of the authorized officer a written motion, serving a copy thereof upon the appellant, requesting that the appeal be dismissed for the reason that it is frivolous, the appeal was filed late, the errors are not clearly and concisely stated, the issues are immaterial, the issue or issues were included in a prior final decision from which no timely appeal was made, or all issues involved therein have been previously adjudicated in an appeal involving the same preference, the same parties or their predecessors in interest. The appellant may file a written answer within 20 days after service of the motion upon him with the State Director. The appeal, motion, the proofs of service (see § 4.401(c)), and the answers will be transmitted to the Hearings Division, Office of Hearings and Appeals, Salt Lake City, Utah. An administrative law judge, shall rule on the motion, and, if the motion is sustained, dismiss the appeal by written order.

§ 4.471 Time and place of hearing; notice; intervenors.

At least 30 days before the date set by the administrative law judge the authorized officer will notify the appellant of the time and place of the hearing within or near the district. Any other person who in the opinion of the authorized officer may be directly affected by the decision on appeal will also be notified of the hearing; such person may himself appear at the hearing, or by attorney, and upon a proper showing of interest, may be recognized by the administrative law judge as an intervenor in the appeal.

§ 4.472 Authority of administrative law judge.

(a) The administrative law judge is vested with the duty and general authority to conduct the hearing in an orderly, impartial, and judicial manner, including authority to subpoena witnesses, recognize intervenors, administer oaths and affirmations, call and question witnesses, regulate the course and order of the hearing, rule upon offers of proof and the relevancy of evidence, and to make findings of fact, conclusions of law, and a decision. The administrative law judge shall have authority to take or to cause depositions to be taken. Subpoenas, depositions, the attendance of witnesses, and witness and deposition fees shall be governed by § 4.26 of the general rules in Subpart B of this part, to the extent such regulations are applicable.

(b) The administrative law judge also may grant or order continuances, and set the times and places of further hearings. Continuances shall be granted in accordance with § 4.452–3 add "."

§ 4.473 Service.

Service of notice or other documents required under this subpart shall be governed by §§ 4.413 and 4.422. Proof of such service shall be filed in the same office where the notice or document was filed within 15 days after such service, unless filed with the notice or document.

§ 4.474 Conduct of hearing; reporter's fees; transcript.

(a) The appellant, the State Director or his representative, and recognized intervenors will stipulate so far as possible all material facts and the issue or issues involved. The administrative law judge will state any other issues on which he may wish to have evidence presented. Issues which appear to the administrative law judge to be unnecessary to a proper disposition of the case will be excluded; but the party asserting such issue may state briefly for the record the substance of the proof which otherwise would have been offered in support of the issue. Issues not covered by the appellant's specifications of error may not be admitted except with the consent of the State Director or his representative, unless the administrative law judge rules that such issue is essential to the controversy and should be admitted. The parties will then be given an opportunity to submit offers of settlement and proposals of adjustment for the consideration of the administrative law judge and of the other parties.

(b) Unless the administrative law judge orders otherwise, the State Director or his representative will then make the opening statement, setting forth the facts leading to the appeal. Upon the conclusion of the opening statement, the appellant shall present his case, consistent with his specifications of error. (In the case of a show cause, the State Director shall set forth the facts leading to the issuance of the show cause notice and shall present his case following the opening statement.) Following the appellant's presentation, or upon his failure to make such presentation, the administrative law judge, upon his own motion or upon motion of any of the parties, may order summary dismissal of the appeal with prejudice because of the inadequacy or insufficiency of the appellant's case, to be followed by a written order setting forth the reasons for the dismissal and taking such other action under this subpart as may be proper and warranted. An appeal may be had from such order as well as from any other final determination made by the administrative law judge.

(c) In the absence or upon denial of such motion the State Director or his representative and recognized intervenors may present evidence if such a presentation appears to the administrative law judge to be necessary for a proper disposition of the matters in controversy, adhering as closely as possible to the issues raised by the appellant. All oral testimony shall be under oath or affirmation, and witnesses shall be subject to cross-examination by any party to the proceeding. The administrative law judge may question any witness whenever it appears necessary. Documentary evidence will be received by the administrative law judge and made a part of the record, if pertinent to any issue, or may be entered by stipulation. No exception need be stated or noted and every ruling of the administrative law judge will be subject to review on appeal. The party affected by an adverse ruling sustaining an objection to the admission of evidence, may insert in the record, as a tender of proof, a brief written statement of the substance of the excluded evidence; and the opposing party may then make an offer of proof in rebuttal. The administrative law judge shall summarily stop examination and exclude testimony on any issue which he determines has been adjudicated previously in an appeal involving the same preference and the same parties or their predecessors in interest, or which is obviously irrelevant and immaterial to the issues in the case. At the conclusion of the testimony the parties at the hearing shall be given a reasonable opportunity, considering the number and complexity of the issues and the amount of testimony, to submit to the administrative law judge proposed findings of fact and conclusions of law, and reasons in support thereof, or to stipulate to a waiver of such findings and conclusions.

(d) The reporter's fees shall be borne by the Government. Each party shall pay for any copies of the transcript obtained by him. Unless the parties stipulate to a summary of the evidence, the Government will file the original

copy of the transcript with the case record.

§ 4.475 Findings of fact and decision by administrative law judge: notice; submission to Board of Land Appeals for decision.

(a) As promptly as possible after the time allowed for presenting proposed findings and conclusions, the administrative law judge shall make findings of fact and conclusions of law unless waiver has been stipulated, and shall render a decision upon all material issues of fact and law presented on the record. In doing so he may adopt the findings of fact and conclusions of law proposed by one or more of the parties if they are correct. The reasons for the findings, conclusions, and decisions made shall be stated, and along with the findings, conclusions, and decision, shall become a part of the record in any further appeal. A copy of the decision shall be sent by certified mail to the appellant and all intervenors, or their attorneys of record.

(b) The Board of Land Appeals may require, in any designated case, that the administrative law judge make only a recommended decision and that such decision and the record be submitted to the Board for consideration. The recommended decision shall meet all the requirements for a decision set forth in paragraph (a) of this section. The Board shall then make the decision in the case. This decision shall include such additional findings and conclusions as do not appear in the recommended decision and the record shall include such rulings on proposed findings and conclusions submitted by the parties as have not been made by the administrative law judge.

§ 4.476 Appeals to the Board of Land Appeals.

Any party affected by the administrative law judge's decision, including the State Director, has the right to appeal to the Board of Land Appeals, in accordance with the procedures and rules set forth in this Part 4.

§ 4.477 Effect of decision suspended during appeal.

(a) An appeal shall suspend the effect of the decision from which it is taken pending final action on the appeal unless the decision appealed from is made immediately effective.

(b) Consistent with the provisions of § 4160.3 of this title, (1) the authorized officer may provide initially in his decision that it shall be in full force and effect pending decision on an appeal therefrom; (2) the administrative law judge may provide in the decision on an appeal before such officer that it shall be in full force and effect pending decision on any further appeal; (3) the Board may provide by interim order that any decision from which an appeal is taken shall be in full force and effect pending final decision on the appeal. Any action taken by the authorized officer pursuant to a decision shall be subject to modification or revocation by the administrative law judge or the Board upon an appeal from the decision. In order to insure the exhaustion of administrative remedies before resort to court action, a decision which at the time of its rendition is subject to appeal to a superior authority in the Department shall not be considered final so as to be agency action subject to judicial review under 5 U.S.C. section 704, unless it has been made effective pending a decision on appeal in the manner provided in this paragraph.

§ 4.478 Conditions of decision action.

(a) *Record as basis of decision; definition of record.* No decision shall be rendered except on consideration of the whole record or such portions thereof as may be cited by any party or by the State Director and as supported by and in accordance with the reliable, probative, and substantial evidence. The transcript of testimony and exhibits, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for decision.

(b) *Effect of substantial compliance.* No adjudication of grazing preference will be set aside on appeal, if it appears that it is reasonable and that it represents a substantial compliance with the provisions of Part 4100 of this title.

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Bureau of Land Management

43 CFR Parts 2540, 2740, and 9180

[Circular No. 2447]

Omitted Lands and Unsurveyed Islands

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking provides procedures for the conveyance of unsurveyed islands and lands omitted from original surveys. Section 211 of the Federal Land Policy and Management Act of 1976 authorizes the Secretary of the Interior to convey unsurveyed islands and omitted lands to State and local governments and to occupants under certain conditions.

DATE: Effective on August 17, 1979.

ADDRESS: Any comments or inquiries should be sent to: Director (320), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Stephen Spector, 202-343-8731.

SUPPLEMENTARY INFORMATION: The proposed rulemaking on this subject was published in the **Federal Register** on November 2, 1978 (43 FR 51043), and provided for a 60 day comment period. Nine written comments were received during the 60 day comment period, all from State governments or agencies. All of the comments supported the rulemaking but a number of questions were raised about the way the rulemaking will be carried out. One comment raised a question about whether the conveyances covered by the rulemaking would be subject to the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The disposal of an unsurveyed island or omitted lands will be the subject of an environmental analysis prior to conveyance. If the analysis indicates a need for an environmental statement, such a statement will be completed.

Several of the comments raised the issue of possible State claims to an unsurveyed island and how those claims would be handled if an application for conveyance of that island were received from a local government. This rulemaking does not create new procedures which will require a State to qualify to receive unsurveyed islands or omitted lands which it already claims. The provisions of the Submerged Lands Act (43 U.S.C. 1301 et seq.) as it applies to islands within navigable waters and the Swamp and Overflowed Lands Act (43 U.S.C. 983) are still applicable. This rulemaking does not change the rights created by those Acts.

The rulemaking requires the Secretary of the Interior to make a determination that an unsurveyed island covered by an application is public lands. The procedure that will be followed in making that determination is that the assumption will be made that a State making an application for title to an unsurveyed island under this rulemaking is waiving any claim that it might have to that island under other laws or regulations. This assumption will allow the Department of the Interior to make a very abbreviated title determination and declare the island to be public lands. However, if a local government applies for title to an unsurveyed island under this rulemaking, it should first attempt to obtain a waiver of any claim from the

State where the island is located. If the waiver is obtained, an abbreviated title determination declaring the island to be public lands can be made. If, however, the State objects to the application and raises the question of a prior claim to the island, the Department of the Interior will have no choice but to make a complete title survey in order to determine if the island is in fact public lands or not. This title survey will be long and tedious, but is required if the Department is to give an adequate title opinion. This procedure will carry out the intent of Congress in its enactment of section 211 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1721) of providing a quick method of conveying unsurveyed islands to States and local governments, but at the same time will protect any claims that the States might have to those unsurveyed islands. Finally, the rulemaking provides for a survey if the applicant bears the cost and this would provide as clear a title opinion as can be given.

Further, if the Department of the Interior makes a determination that an unsurveyed island is public lands, a State with a claim to that unsurveyed island could take steps to challenge that decision.

In those instances where the Department of the Interior determines that an unsurveyed island is not public lands, title could be clarified under a disclaimer provided for in section 315 of the Federal Land Policy and Management Act.

One comment pointed out that some State laws exempt the State from having to comply with requirements of local governmental authorities for planning. It is not intended to impose conditions beyond those imposed by existing law but every effort will be made to comply with applicable law and to keep all interested parties informed so that those affected by a disposal of public lands can work together for the public interest.

No changes, other than editorial changes, have been made in the proposed rulemaking for its publication as final rulemaking.

The principal author of this final rulemaking is Stephen H. Spector, Division of Lands and Realty, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management.

Note.—The Department of the Interior has determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of section 211 and 310 of the Federal Land Policy and Management Act of 1976, (43 U.S.C. 1721 and 1740), Parts 2540, 2740 and 9180, Subchapters B and I, Chapter II, Title 43 of the Code of Federal Regulations are amended as set forth below.

Guy R. Martin,

Assistant Secretary of the Interior.

July 11, 1979.

1. Part 2540 is amended by changing its title as follows:

PART 2540—COLOR-OF-TITLE AND OMITTED LANDS

2. Part 2540, Subpart 2540, § 2540.0–3 is amended by adding an additional source of authority (paragraph (g)) to read as follows:

§ 2540.0–3 Authority.

* * * * *

(g) The Federal Land Policy and Management Act of 1976.

(1) Section 211 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1721), authorizes the Secretary of the Interior in his discretion to sell at not less than fair market value to the occupant thereof any omitted lands which, after survey, are found to have been occupied and developed for a 5-year period prior to January 1, 1975.

(2) The Act provides that all such conveyances under the Act must be in the public interest and will serve objectives which outweigh all public objectives and values served by retaining such lands in Federal ownership.

(3) Section 208 of the Act (43 U.S.C. 1718) further provides that the Secretary of the Interior shall issue patents subject to such terms, convenants, conditions, and reservations as deemed necessary to insure proper land use and protection of the public interest.

(4) Section 209 of the Act (43 U.S.C. 1719) provides that all patents issued under the Act shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except as provided by section 209(b) of the Act.

3. Part 2540, Subpart 2541, is amended by changing the title as follows:

Subpart 2541—Color-of-Title Act

4. Part 2540 is further amended by adding Subpart 2547 to read as follows:

Subpart 2547—Omitted Lands—General

Sec.

2547.1 Qualifications of applicants.
2547.2 Procedures; applications.
2547.3 Price of land; payment.
2547.4 Publication and protests.
2547.5 Disposal considerations.
2547.6 Lands not subject to disposal under this subpart.

Authority: Sec. 211 and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1721 and 1740).

Subpart 2547—Omitted Lands—General

§ 2547.1 Qualifications of applicants.

(a) Any person authorized to hold title to land in the State may make application under section 211 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1721). For regulations on conveyances of omitted lands and unsurveyed islands to State and local governments see subpart 2342 of this title.

(b) The applicant shall be a citizen of the United States, or in the case of corporation, shall be organized under the laws of the United States or any State thereof.

(c) The applicant shall have occupied and developed the lands for a 5-year period prior to January 1, 1975.

§ 2547.2 Procedures; applications.

(a) The description of the omitted lands applied for shall be sufficiently complete to identify the location, boundary, and area of the land, including, if possible, the legal description of the land by section or fractional section, township, range, meridian and State.

(b) Each application shall be accompanied by a filing fee of $50 that is nonreturnable. The application shall be filed in accordance with the provisions of § 1821.2 of this title.

(c) No special form of application is required. The application shall be typewritten or in legible handwriting and shall contain the following information:

(1) The full name and legal mailing address of the applicant.

(2) The description and acreage of the public lands claimed.

(3) A statement showing that the applicant is qualified or authorized to hold title to land in the State, is a citizen of the United States, and in the case of a corporation, is organized under the laws of the United States or any State thereof.

(4) A statement describing how the applicant has satisfied the requirements of the statute.

(5) A statement describing the nature and extent of any developments made to the lands applied for and describing the period and type of any occupancy of the land.

(6) The names and legal mailing addresses of any known adverse claimants or occupants of the applied for lands.

(7) A citation of the Act under which the application is being made.

§ 2547.3 Price of land; payment.

(a) The land applied for shall be appraised for fair market value at the time of appraisal. However, in determination of the price payable by the applicant, value resulting from development and occupation by the applicant or his predecessors in interest shall be deducted from the appraised price.

(b) The applicant shall also be required to pay administrative costs, including:

(1) the cost of making the survey,

(2) the cost of appraisal, and

(3) the cost of making the conveyance.

(c) The applicant shall be required to make payment of the sale price and administrative costs within the time stated in the requests for payment or any extensions granted thereto by the authorized officer.

§ 2547.4 Publication and protests.

(a) The applicant shall be required to publish a notice of the application once a week for five consecutive weeks in accordance with § 1824.3 of this title, in a designated newspaper and in a designated form. All persons claiming the land adversely may file with the State Office of the Bureau of Land Management in which the lands are located, their objections to issuance of patent under the application. A protestant shall serve on the applicant a copy of the objections and furnish evidence of such service.

(b) The applicant shall file at the appropriate BLM office a statement of the publisher, accompanied by a copy of the notice published, showing that the publication has been made for the required time.

§ 2547.5 Disposal considerations.

(a) Disposal under this provision shall not be made until:

(1) It has been determined by the authorized officer that such conveyance is in the public interest and will serve objectives which outweigh all public objectives and values which would be served by retaining such lands in Federal ownership.

(2) The relevant State government, local government, and areawide planning agency designated under section 204 of the Demonstration Cities and Metropolitan Act of 1966 (80 Stat. 1255, 1262), and/or title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4) have notified the authorized officer as to the consistency of such conveyance with applicable State and local government land use plans and programs.

(3) The plat of survey has been officially filed.

§ 2547.6 Lands not subject to disposal under this subpart.

This subpart shall not apply to any lands within the National Forest System, defined in the Act of August 17, 1974 (16 U.S.C. 1601), the National Park System, the National Wildlife Refuge System, and the National Wild and Scenic Rivers System.

§ 2547.7 Coordination with State and local governments.

At least 60 days prior to offering land for sale, the authorized officer shall notify the Governor of the State within which the lands are located and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which the lands are located that the lands are being offered for sale. The authorized officer shall also promptly notify such public officials of the issuance of the patent for such lands.

PART 2740—RECREATION AND PUBLIC PURPOSES ACT

5. Part 2740 is amended by adding a new paragraph (c) to § 2740.0–8 to read as follows:

§ 2740.0–8 Lands subject to disposition.

* * * * *

(c) Omitted lands and unsurveyed islands may be conveyed to States or their political subdivisions under the provisions of law added by section 211 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1721).

6. Part 2740 is amended by adding Subpart 2742 to read as follows:

Subpart 2742—Recreation and Public Purposes Act—Omitted Lands and Unsurveyed Islands

Sec.

2742.1 Qualifications of applicants.
2742.2 Survey requirement.
2742.3 Conveyance limitations.
2742.4 Consistency with other laws.

Authority: Sec. 211 and 310, Federal Land Policy and Management Act of 1976 (43 U.S.C. 1721 and 1740).

Subpart 2742—Recreation and Public Purposes Act—Omitted Lands and Unsurveyed Islands

§ 2742.1 Qualifications of applicants.

States and their political subdivisions are qualified applicants.

§ 2742.2 Survey requirement.

(a) Islands.

(1) Survey is not necessary. However, unsurveyed islands shall be determined by the Secretary to be public lands of the United States.

(2) Islands shall be surveyed at the request of the applicant, as provided in Part 9185 of this chapter.

(b) Determination as to whether lands, other than islands, are public lands of the United States erroneously or fraudulently omitted from the original surveys shall be by survey. Surveys shall be in accordance with the requirements of Part 9185 of this Title.

§ 2742.3 Conveyance limitations.

(a) No conveyances shall be made under this section until the relevant State government, local government, and areawide planning agency have notified the Secretary as to the consistency of such conveyance with applicable State and local government land use plans and programs.

(b) At least 60 days prior to offering for sale or otherwise conveying public lands under this section, the Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land-use regulatory jurisdiction in the geographical area within which such lands are located in order to afford the appropriate body the opportunity to zone or otherwise regulate change or amend existing zoning or other regulations concerning the use of such lands prior to such conveyance.

(c) Conveyances under this section may be made without regard to acreage limitations contained in the Recreation and Public Purposes Act.

§ 2742.4 Consistency with other laws.

The provision of the Recreation and Public Purposes Act prohibiting disposal for any use authorized under any other law does not apply to conveyances under this subpart.

PART 9180—CADASTRAL SURVEY

7. Part 9180, section 9185.1–1 is amended by revising paragraph (b) to read as follows:

§ 9185.1–1 Surveys.

(a) * * *

(b) *Lands omitted from original survey.* Application for the survey of an unsurveyed island or other land omitted from the orginal survey shall be made on Form 9600–2, or its equivalent, and filed in duplicate with the State director for the State in which lands are situated.

8. Section 9185.2–2(a) is revised to read as follows:

§ 9185.2–2 Lands omitted from original survey.

(a) *Notice of intended application.* Notice of intention to apply for survey of an island or other land omitted from the original survey shall be served on the adjacent land owners, and the Attorney General and the Secretary of State for the State in which the land is situated, at least 30 days prior to the date of application for survey. Service may be had by return receipt mail or in person, evidence of which may consist of the return receipt or signed acknowledgment of service. A copy of each notice, with proof of service thereof, shall be filed with the application. Failure to obtain evidence of service may be explained.

9. Subpart 9185 is further amended by adding § 9185.2–3 to read as follows:

§ 9185.2–3 Unsurveyed islands and omitted lands.

(a) Section 211(a) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2758), provides for the conveyance under the Recreation and Public Purposes Act of unsurveyed islands determined by the Secretary to be public lands of the United States. The conveyance of any such island may be made without survey; however, such island shall be surveyed at the request of the qualified applicant. If the applicant requests that a survey be executed, the applicant shall be required to:

(1) Furnish a written statement identifying his choice of donation of money, services, or both for the survey.

(2) If the applicant elects to donate money, such donation shall equal the Bureau of Land Management's estimated cost of survey. The donated money shall be credited and expended in accordance with section 307(c) of the Act. A written estimate of such costs shall be furnished to the applicant by the Bureau.

(3) If the applicant elects to donate services, such services shall be conducted and performed pursuant to the criteria established by the Director of the Bureau of Land Management.

(b) Section 211(b) of the Act, provides for conveyance, under the Recreation and Public Purposes Act (43 U.S.C. 869), of lands other than islands determined by the Secretary by survey to be public lands of the United States erroneously or fraudulently omitted from the original surveys. An applicant may be required to donate money, services, or a combination thereof for such survey. The procedures contained in § 9185.2–3(a) of this title shall be followed.

[FR Doc. 79–22171 Filed 7–17–79; 8:45 am]

BILLING CODE 4310–81–M

43 CFR Public Land Order 5669

Alaska; Partial Revocation of Public Land Order No. 5150, as Amended and Classification and Withdrawal of Lands for Conveyance to Cook Inlet Region, Inc.

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land order.

SUMMARY: This Public Land Order partially revokes PLO 5150, as amended, and classifies and withdraws certain lands for conveyance to Cook Inlet Region, Inc., under the Alaska Native Claims Settlement Act.

EFFECTIVE DATE: July 13, 1979.

FOR FURTHER INFORMATION CONTACT: Beau McClure—202–343–6511 or Bob Arnold, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

By virtue of the authority vested in the Secretary of the Interior, by Section 17(d)(1) of the Alaska Native Claims Settlement Act, 85 Stat. 688, 708, and pursuant to Section 204 of the Act of October 21, 1976, 90 Stat. 2751, (43 U.S.C. 1714), it is ordered as follows:

1. Public Land Order No. 5150 of December 28, 1971, as amended, which withdrew lands for a utility corridor in Alaska is hereby revoked so far as it affects the following lands:

Fairbanks Meridian

T. 1S., R. 2E.,
Secs,. 14 and 15, all;
Sec. 21, S½;
Sec. 23, all;
Secs. 26 and 27, all.

The area described aggregates approximately 3,520 acres.

2. The segregative effect of the proposed withdrawal and reservation of lands for a Bureau of Land Management administrative and communications site, as published in the **Federal Register** (36 FR 7978) on April 28, 1971, is hereby terminated.

3. Subject to valid existing rights, the lands described below are hereby classified as suitable for conveyance to Cook Inlet Region, Inc. in accordance with paragraph I.C.(2) of the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area", as clarified August 31, 1976, and Sec. 12(b)(6) of the Act of January 2, 1976, 89 Stat. 1151:

Fairbanks Meridian

T. 1S., R. 2E.,
Secs. 21 E½NE¼SW¼, NW¼NE¼SW¼, N½SW¼NE¼SW¼, SW¼SW¼NE¼SW¼, W½SW¼, SE¼SW¼, SE¼;
Sec. 26, all;
Sec. 27, all.

Aggregating approximately 1,597.50 acres.

4. The lands described in paragraph 3 are hereby withdrawn from all forms of settlement, sale, location, or entry under the operation of the public land laws including the mining laws (30 U.S.C. Chap. 2) and State selection under Section 6 of the Alaska Statehood Act (72 Stat. 339), but not from selection by Cook Inlet Region, Inc., in accordance with paragraph I.C.(2)(e) of the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area", as clarified August 31, 1976, and Section 12(b)(6) of the Act of January 2, 1976, 89 Stat. 1151.

5. The lands described in paragraph 1 of this order which are not classified for conveyance to Cook Inlet Region, Inc., shall continue to remain withdrawn by Public Land Order 5180 of March 9, 1972, as amended.

6. Prior to any conveyance of the lands described in paragraph 3, the lands shall be subject to administration by the Secretary of the Interior under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this order. Applications for leases under the Mineral Leasing Act, as amended (30 U.S.C. 181–287 (1970)), will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

Guy R. Martin,

Assistant Secretary of the Interior.

July 13, 1979.

[FR Doc. 79–22151 Filed 7–17–79; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FI-5200]

National Flood Insurance Program; Final Flood Elevation Determination for the City of Brewton, Escambia County, Ala.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Brewton, Escambia County, Alabama.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Brewton, Escambia County, Alabama are available for review at the City Clerk's Office, Brewton City Hall, P.O. Box 368, Brewton, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Brewton, Escambia County, Alabama.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Murder Creek	Just upstream of U.S. Highway 29 Bridge.	86
Burnt Corn Creek	Granberry Street Extended	89
	Just upstream of Highway 41	95
Tributary 1	Just upstream of the Louisville and Nashville Railroad.	93
	Just upstream of Kirkland Rd	106
King Branch	Just upstream of the Louisville and Nashville Railroad.	105
	Just upstream of Kirkland Rd	109

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

Issued: June 14, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21677 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5323]

National Flood Insurance Program; Final Flood Elevation Determination for the City of Saraland, Mobile County, Ala.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Saraland, Mobile County, Alabama.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Saraland, Mobile County, Alabama, are available for review at the City Clerk's Office, City Hall, 716 U.S. Highway 43 South, Saraland, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Saraland, Mobile County, Alabama.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bayou Sara	At U.S. Highway 43	15
	Approximately 200 feet downstream of Interstate 65.	22
	Approximately 150 feet upstream of Forest Avenue.	39
Bayou Sara Tributary No. 1.	Just upstream of Cleste Road.	20
Hells Swamp Branch	Approximately 300 feet upstream of Interstate 65.	20
Norton Creek	Just downstream of U.S. Highway 43.	14
	Just upstream of Shelton Beach Road.	26
	Just downstream of Interstate 65.	30
Norton Creek Tributary No. 1.	Approximately 100 feet downstream of McKeough Avenue.	24
Norton Creek Tributary No. 2.	Approximately 200 feet downstream of Interstate 65.	29
Norton Creek Tributary No. 3.	Just downstream of Interstate 65.	39
Chickasaw Creek (Backwater flooding from Black Bayou).	Southern Corporate Limits	11
Chickasaw Creek Tributary No. 2.	Confluence with Chickasaw Creek Tributary No. 1.	11
	Just downstream of Industrial Parkway (State Highway 158).	15

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

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21678 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5231]

National Flood Insurance Program; Final Flood Elevation Determination for the City of Hot Springs, Garland County, Ark.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Hot Springs, Garland County, Arkansas.

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

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Hot Springs, Garland County, Arkansas.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Hot Springs, Garland County, Arkansas, are available for review at the Municipal Building, Hot Springs, Arkansas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Hot Springs, Garland County, Arkansas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stokes Creek	Lakeshore Drive	413
	South Glen Drive	444
	Confluence of Tributary No. 2	470
	Richard Street	486
	Michael Street	491
	Woodlawn Avenue	504
	Frieda Street	512
	Summer Street	521
	Seventh Street	530
	Third Street	550
Stokes Creek Tributary No. 1.	Confluence with Stokes Creek.	440
	1,000 feet upstream of confluence with Stokes Creek.	450
	South Patterson Street (upstream side).	459
	800 feet upstream of South Patterson Street (downstream).	465
Stokes Creek Tributary No. 2.	Confluence with Stokes Creek.	470
	1,000 feet upstream of confluence.	486
	1,500 feet upstream of confluence.	498
	2,000 feet upstream of confluence.	508
	2,500 feet upstream of confluence.	520
	3,000 feet upstream of confluence.	529
	3,500 feet upstream of confluence.	540
	4,000 feet upstream of confluence.	552
	Missouri Pacific Railroad	566
Hot Springs Creek	Confluence with Lake Hamilton.	413
	2,000 feet upstream of confluence.	432
	3,000 feet upstream of confluence.	440
	Downstream side of Golf Links Road.	454
	30 feet upstream of Golf Links Road.	458
	800 feet upstream of Golf Links Road.	460
	1,800 feet upstream of Golf Links Road.	472
	2,800 feet upstream of Golf Links Road.	482
	3,800 feet upstream of Golf Links Road.	491
	Underwood Street (upstream side).	502
	1,080 feet upstream of Underwood Street.	512
	100 feet upstream of Missouri Pacific RR.	524
	Upstream side of Belding Street.	536
	1,000 feet upstream of Belding Street.	546
	Maurice Street	558
	Upstream side of U.S. Route 70/Missouri Pacific Railroad.	564
	1,100 feet upstream of U.S. Route 70/Missouri Pacific Railroad.	574
	2,100 feet upstream of U.S. Route 70/Missouri Pacific Railroad.	589
	Reserve Street	604
	1,600 feet upstream of Reserve Street.	620
	Confluence of Tributary No. 1	630
	Park Avenue	642
	Glade Street	650
	Magnolia Street	668
Hot Springs Creek Tributary No. 1.	Confluence with Hot Springs Creek.	630
	1,000 feet upstream of confluence.	638
	1,500 feet upstream of confluence.	643
	Whittington Park	644
	2,170 feet upstream of confluence.	650
	Access Road	655
	700 feet upstream of Access Road.	664
	1,200 feet upstream of Access Road.	667
	1,350 feet upstream of Access Road.	672
	1,700 feet upstream of Access Road.	677
	2,200 feet upstream of Access Road.	680
	2,700 feet upstream of Access Road.	682
	Woodfin Street	686
	500 feet upstream of Woodfin Street.	692
	1,000 feet upstream of Woodfin Street.	699
	Newton Street	714
	Upstream Whittington Avenue.	730
Molly Creek	Confluence with Lake Hamilton.	404
	Raven Drive	410
	500 feet upstream of Raven Drive.	419
	1,000 feet upstream of Raven Drive.	427
	1,500 feet upstream of Raven Drive.	436
	2,000 feet upstream of Raven Drive.	444
	2,500 feet upstream of Raven Drive.	451
	3,000 feet upstream of Raven Drive.	459
	3,500 feet upstream of Raven Drive.	466
	Confluence of Tributary A	471
	Confluence of Tributary No. 1	479
	500 feet upstream of confluence of Tributary No. 1.	486
	1,000 feet upstream of confluence of Tributary No. 1.	492
	1,500 feet upstream of confluence of Tributary No. 1.	503
	50 feet downstream of Missouri Pacific Railroad.	509
	Upstream side Missouri Pacific Railroad.	513
	20 feet upstream of Albert Pike Road/U.S. Route 270.	535
Molly Creek Tributary No. 1.	Confluence with Molly Creek.	479
	30 feet upstream of Marie Street.	486
	500 feet upstream of Marie Street.	492
	1,000 feet upstream of Marie Street.	499
	Molly Springs Road	508
Gulpha Creek	U.S. Route 270	320

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	2,000 feet upstream of U.S. Route 270.	324
	5,000 feet upstream of U.S. Route 270.	338
	7,000 feet upstream of U.S. Route 270.	350
	8,000 feet upstream of U.S. Route 270.	356
	9,000 feet upstream of U.S. Route 270.	364
	9,900 feet upstream of U.S. Route 270.	370
	11,000 feet upstream of U.S. Route 270.	380
	11,900 feet upstream of U.S. Route 270.	390
	Missouri Pacific Railroad	401
	Confluence of Middle Branch Gulpha Creek.	406
	2,000 feet upstream of confluence with Middle Branch Gulpha Creek.	415
	3,000 feet upstream of confluence with Middle Branch Gulpha Creek.	424
	Honeycutt Street (250 feet upstream).	430
	Vernel Street (downstream side).	450
	Chicago Rock Island and Pacific Railroad.	456
	Spring Street (downstream side).	468
	Downstream U.S. Route 70	490
	Upstream U.S. route 70	500
	Downstream U.S. Route 70C.	514
	1,050 feet upstream of U.S. Route 70C.	526
	2,150 feet upstream of U.S. Route 70C.	538
	4,150 feet upstream of downstream U.S. Route 70C.	561
	Confluence of Tributary No. 1	571
	Upstream U.S. Route 70C (upstream side).	592
	1,000 feet upstream of upstream U.S. Route 70C.	598
	2,000 feet upstream of upstream U.S. Route 70C.	606
	3,000 feet upstream of upstream U.S. Route 70C.	620
Middle Branch Gulpha Creek.	Confluence with Gulpha Creek.	406
	Chicago Rock Island and Pacific Railroad.	408
	Spring Street (upstream side)	409
	Downstream U.S. Route 70	424
	Upstream U.S. Route 70	426
	1,000 feet upstream of upstream U.S. Route 70.	432
	Mill Creek Road (100 feet downstream.	450
Gulpha Creek Tributary No. 1.	Confluence with Gulpha Creek.	571
	U.S. Route 70C	580
	500 feet upstream of U.S. Route 70C.	593
	1,000 feet upstream of U.S. Route 70C.	598
	Shore Drive	610

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

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21679 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5011]

National Flood Insurance Program; Final Flood Elevation Determination for the City of Morro Bay, San Luis Obispo County, Calif.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Morro Bay, San Luis Obispo County, California.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Morro Bay, San Luis Obispo County, California, are available for review at City Hall, 595 Harbor, Morro Bay, California.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Morro Bay, California.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chorro Creek	Los Osos Baywood-Park Road—80 feet*.	13
Morro Creek	Main Street—40 feet*	26
Unnamed Creek	State Beach Road—40 feet*.	14
	Sandalwood Avenue—40 feet*.	28
	State Highway Route 1—90 feet**.	31
	State Highway Route 1—120 feet*.	42
Noname Creek	Tide Avenue—60 feet*	60
Toro Creek	1st crossing of State highway Route 1—20 feet**.	14
	1st crossing of State Highway Route 1—30 feet*.	15

*Upstream from centerline.
**Downstream from centerline.

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

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21680 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5167]

National Flood Insurance Program; Final Flood Elevation Determination for the City of Torrance, Los Angeles County, Calif.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Torrance, Los Angeles County, California.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Torrance, Los Angeles County, California, are available for review at City Hall, 3031 Torrance Boulevard, Torrance, California.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Torrance, California.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ponding	Doris Way between Reese Road and Carol Drive.	63
	530 feet southwest of intersection of Carson Street and Madrona Avenue.	66
	Intersection of Dormont Avenue and Amsler Street.	72
	550 feet southeast of intersection of Madrona Avenue and Monterey Street.	76
	Intersection of Alaska Avenue and California Street.	78
	570 feet southeast of intersection of Spencer Street and Anza Avenue.	81

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

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21661 Filed 7–17–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI-4399]

National Flood Insurance Program; Final Flood Elevation Determination for the Town of Firestone, Weld County, Colo.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Firestone, Weld County, Colorado.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Firestone, Weld County, Colorado, are available for review at Town Hall, 150 Buchanan Avenue, Firestone, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Firestone, Colorado.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tri-Area Drainageway	County Road	4,947
	Downstream Corporate Limits.	4,948
	Union Pacific Railroad	4,950
	Upstream Corporate Limits	4,956

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

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21682 Filed 7–17–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI-5041]

National Flood Insurance Program; Final Flood Elevation Determination for the City of Crescent City, Putnam County, Fla.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Crescent City, Putnam County, Florida.

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

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

elevations, for the City of Crescent City, Florida.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for City of Crescent City, Putnam County, Florida, are available for review at City Hall, 115 North Summit Street, Crescent City, Florida.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Crescent City, Florida.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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

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

Source of flooding	Location	Depth in feet above ground
Lake Stella	End of Lake Shore Drive	41
	200 feet south of Huntington Highway at Lake Stella Drainage Outlet.	41
Crescent Lake	1,020 feet east of the intersection of Summit Street and Myrtle Avenue.	7
	400 feet east of the intersection of Palmetto Avenue and Lake Street.	7

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

Issued: June 22, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21683 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR PART 67

[Docket No. FI-5169]

National Flood Insurance Program; Final Flood Elevation Determination for the City of Bovill, Latah County, Idaho

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Bovill, Latah County, Idaho.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Bovill, Latah County, Idaho, are available for review at City Hall, Bovill, Idaho.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Bovill, Idaho.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4 (a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Potlatch River	Most upstream Limit of Flooding affecting the City of Bovill.	2,848

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

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21684 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5091]

National Flood Insurance Program; Final Flood Elevation Determination for the City of Genesee, Latah County, Idaho

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Genesee, Latah County, Idaho.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Genesee, Latah County, Idaho, are available for review at City Hall, Genesee, Idaho.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of

flood elevations for the City of Genesee, Idaho.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cow Creek	Tamarac Street-50 feet*	2,655
	Laurel Street Bridge-70 feet*	2,658
	Burlington Northern Railroad Bridge-100 feet*	2,660
	Chestnut Street-80 feet*	2,661

*Upstream of centerline.

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

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21685 Filed 7–17–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5171]

National Flood Insurance Program; Final Flood Elevation Determination for the City of Troy, Latah County, Idaho

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Troy, Latah County, Idaho.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Troy, Latah County, Idaho, are available for review at City Hall, Troy, Idaho.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Troy, Idaho.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Fork Little Bear Creek.	State Highway 99 Bridge—50 feet upstream from centerline.	2,458
	State Highway 8 Bridge—at centerline.	2,471

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

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21686 Filed 7–17–79; 8:45 am]

BILLING CODE 4210–23–M

44 CFR Part 67

[Docket No. FI–5172]

National Flood Insurance Program; Final Flood Elevation Determination for the Village of Northfield, Cook County, Ill.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Village of Northfield, Cook County, Illinois.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Village of Northfield are available for review at the Village Hall, 361 Happ Road, Northfield, Illinois.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Village of Northfield, Cook County, Illinois.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were

received from the community or from individuals within the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Skokie River	Just downstream of the Chicago and North Western railroad.	625
	Just downstream of Willow Road.	625
Middle Fork North Branch Chicago River	Just upstream of Winnetka Road.	625
	Just upstream of Old Willow Road.	628
	Just upstream of Middle Fork Road.	631
	At upstream corporate limit	634

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1978), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21687 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5449]

National Flood Insurance Program; Final Flood Elevation Determination for the City of Rossville, Shawnee County, Kans.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Rossville, Shawnee County, Kansas.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Rossville are available for review at the City Hall, Rossville, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Rossville, Shawnee County, Kansas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cross Creek	2,100 feet downstream of U.S. Highway 24.	927
	Directly upstream of Pottawatomie Street.	929
	North corporate limit	930

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1978), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21688 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-28-M

44 CFR Part 67

[Docket No. FI-5242]

National Flood Insurance Program; Final Flood Elevation Determination for the Unincorporated Areas of Wyandotte County, Kans.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Unincorporated Areas of Wyandotte County, Kansas.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Unincorporated Areas of Wyandotte County are available for review at the Wyandotte County Surveyor Office, 710 North 7th Avenue, Kansas City, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Unincorporated Areas of Wyandotte County, Kansas.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in

flood-prone areas in accordance with 44 CFR Part 60.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kansas River	At City of Bonner Springs upstream corporate limits.	778
	Upstream county boundary	782

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

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21689 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-4665]

National Flood Insurance Program; Final Flood Elevation Determination for the City of Monroe, Ouachita Parish, La.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Monroe, Ouachita Parish, Louisiana.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Monroe, Ouachita Parish, Louisiana, are available for review at City Hall, Monroe, Louisiana.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Monroe, Ouachita Parish, Louisiana.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Youngs Bayou	Just upstream of Frontage Road.	69
Railroad Canal	Just upstream of Thomas Street.	73
Swayze School Canal	Just upstream of Frontage Road, upstream of South Bound Lane of U.S. 165.	70
West Prong Youngs Bayou.	Just upstream of Adams Street.	73
	Just upstream of Roselawn Avenue.	74
Oliver Road Canal	Just upstream of DeSiard Street.	73
	Just upstream of Louisville Avenue.	74
	Just upstream of Forsythe Avenue (downstream crossing).	75
East Branch Oliver Road Canal.	Just downstream of Missouri Pacific Railroad.	75
East Prong Youngs Bayou.	Just downstream of Calypso Street.	72
	Just upstream of Adams Street.	73
Rogers Street Canal	Just upstream of Renwick Street.	72
White Street Ditch	Just upstream of Powell Street.	74
Airport Canal	Approximately 120 feet downstream of the Missouri Pacific Railroad.	74
Ouachita River	Just upstream of U.S. Highway 80 Bridge.	85

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

Issued: June 19, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21690 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-4864]

National Flood Insurance Program; Final Flood Elevation Determination for the Town of Parsonsfield, York County, Maine

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Parsonsfield, York County, Maine.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Parsonsfield, York County, Maine, are available for review at Town Clerk's Office, Route 2, Kezar Falls, Maine.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Parsonsfield, Maine.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of

the proposed base flood elevations were received from the community or from individuals within the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ossipee River	Downstream Corporate Limits.	309
	Central Maine Power Company Dam—50 feet*.	349
	Central Maine Power Company Dam—50 feet**.	355
	State Highway 25—50 feet*	363
	Old Wooden Dam—100 feet*	364
	Old Wooden Dam—100 feet**.	371
	Confluence with Mill Brook	382
	Upstream Corporate Limits	386

*Downstream from centerline.
**Upstream from centerline.

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

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21691 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5173]

National Flood Insurance Program; Final Flood Elevation Determination for the Town of Denton, Caroline County, Md.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Denton, Caroline County, Maryland.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Denton, Caroline County, Maryland, are available for review at the Town Hall, 204 Gay Street, Denton, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Denton, Caroline County, Maryland.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Choptank River	Downstream Corporate Limits.	7
	State Route 404 Bridge	7
	Conrail Bridge	8
	Upstream Corporate Limits	8

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

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21692 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-4551]

National Flood Insurance Program; Final Flood Elevation Determination for the City of Frostburg, Allegany County, Md.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Frostburg, Allegany County, Maryland.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Frostburg, Allegany County, Maryland, are available for review at the Frostburg Municipal Building, 37 Broadway, Frostburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Frostburg, Allegany County, Maryland.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in

flood-prone areas in accordance with 44 CFR Part 60.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
George's Creek	Downstream of Grant Street	1,886
	Green Street	1,890
	600' downstream of Corporate Limits.	1,896
	Upstream Corporate Limits	1,905
Sand Spring Run	350' downstream of Braddock Road.	1,869
	Braddock Road (Upstream Side).	1,878
	Footbridge (Upstream Side)	1,887
	450' upstream of Footbridge	1,895
	Campus Loop Road (Downstream Side of Culvert).	1,902
	Campus Loop Road (Upstream Side of Culvert).	1,910
	300' upstream of Campus Loop Road.	1,921
	850' upstream of Campus Loop Road.	1,932
	1,100' upstream of Campus Loop Road.	1,939
	Lower Console Road (Upstream Side).	1,953
	300' upstream of Lower Console Road.	1,959
	635' upstream of Lower Console Road.	1,969
	935' upstream of Lower Console Road.	1,980
	Upper Console Road (Downstream Side).	2,001
	Upper Console Road (Upstream Side).	2,007
	420' upstream of Upper Console Road.	2,013
	630' upstream of Upper Console Road.	2,021
	880' upstream of Upper Console Road.	2,033
	1,180' upstream of Upper Console Road.	2,045
	1,440' upstream of Upper Console Road.	2,055
	1,700' upstream of Upper Console Road.	2,065
	Private Drive (Upstream Side).	2,072
	300' upstream of Private Drive.	2,080
	600' upstream of Private Drive.	2,090
	Wenks Lane (Downstream Side).	2,104
	Wenks Lane (Upstream Side)	2,108
	Footbridge (Upstream Side)	2,114
	110' upstream of Footbridge	2,120

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

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21693 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

44 CFR Part 67

[Docket No. FI-5176]

National Flood Insurance Program; Final Flood Elevation Determination for the Town of Norwood, Norfolk County, Mass.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the Town of Norwood, Norfolk County, Massachusetts.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Norwood are available for review at the Town Clerk's Office, Norwood, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the Town of Norwood, Norfolk County, Massachusetts.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Neponset River	At northeasten corporate limits.	48
	At Interstate 95 (centerline between northbound and southbound lanes).	48
	Upstream of Route 1	49
	At Pleasant Street	51
	At Conrail	54
	At Morse Street	59
	At foot bridge, 1,350 feet upstream of Morse Street.	68
	At southwestern corporate limit.	71
Plantingfield Brook	160 feet upstream of Route 1.	51
	At downstream face of culvert, 1,500 feet upstream of Route 1.	57
	At upstream face of culvert, 2,900 feet upsteam of Route 1.	106
	Upstream of Polaroid Access Road (most downstream crossing).	170
	Northern corporate limit	191
Germany Brook	At Nichols Street	113
	At Westover Parkway	119
	Approximately 100 feet upstream of Warwick Road.	150
	Northwesten corporate limit	157
Hawes Brook	Confluence with Neponset River	58
	Upstream of Washington Street.	64
	At Conrail	80
	Upstream of Walpole Street	101
	Ellis Pond Dam	111
	Western corporate limit	137
Meadow Brook	At confluence with Neponset River	49
	At Route 1	49
	Approximately 2,000 feet upstream of Route 1.	50
Purgatory Brook	At Route 1	57
	At Everett Road	66
Traphole Brook	At Summer Street	81
	Upstream of Route 1	97
	At the corporate limits, 1,500 feet upstream of Route 1.	101

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

Issued: June 18, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21694 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 662

Approval of Amendment to the Fishery Management Plan for the Northern Anchovy Fishery

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Approval of an amendment to the Fishery Management Plan for the Northern Anchovy Fishery (FMP).

SUMMARY: During its meeting on May 10–11, 1979, the Pacific Fishery Management Council (Council) approved a proposed amendment to the Fishery Management Plan for the Northern Anchovy Fishery (FMP). The Council subsequently submitted the amendment to the Secretary of Commerce for review. The amendment, which identifies domestic harvesting and processing capacities, and relates the domestic annual harvest (DAH) to optimum yield (OY), has now been approved.

FOR FURTHER INFORMATION CONTACT: Mr. Lorry Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201 (503–221–6352).

SUPPLEMENTARY INFORMATION: The FMP for the northern anchovy fishery was approved by the Secretary of Commerce on July 13, 1978, and implementing regulations were effective on September 15, 1978. Shortly after approval of the FMP, the Council prepared a draft proposed amendment which changed the method of specification of domestic annual harvest. The draft was circulated for public review and comment, and a hearing was held in San Diego, CA, on January 12, 1979, to receive public comments.

A second draft amendment was subsequently prepared and summarized in the **Federal Register** on March 21, 1979 (see 44 FR 17199). The Council believed that the public should be provided with additional time to review and comment on the second draft and extended the period for public review until April 10, 1979.

In addition, Pub. L. 95–354, which amends the Fishery Conservation and Management Act of 1976 (FCMA), requires that the FMP include estimates of domestic processing capacity and the expected annual level of domestic processing (DAP). The current amendment also addresses these requirements.

Four letters were received during the comment period. The Council reviewed the comments, the majority of which were not related substantially to the proposed amendment, and concluded that no changes in the amendment were necessary. During its meeting on May 10–11, 1979, the Council approved the amendment which was subsequently submitted to the Department of Commerce for review. The amendment has now been approved.

Summary of the Amendment

The amendment reviews the performance of the anchovy harvesting and processing sectors and estimates absolute capacity limits for each. The amendment notes that the full capacity of neither the domestic harvesting sector nor the processing sector is expected to be utilized every year. The reduction fishery harvest may be limited by either the annual quota (derived by formula under the FMP), or the reduction processing capacity. Similarly, the expected annual processing level may be limited by the reduction fishery quota in any given year.

The amendment accomodates this situation by establishing estimates of expected domestic harvest and processing levels as follows:

1. Total estimated harvesting capacity (if the availability of fish were not limited) is 891,492 short tons for the reduction fleet and 8,500 short tons for the live-bait fleet; total harvesting capacity is 899,922 tons.

2. Domestic processing capacity for reduction is 359,080 short tons and for non-reduction (human consumption and frozen bait) is 4,305 short tons; total processing capacity is 363,385 short tons. As a practical matter, domestic processing capacity serves as a limit on harvest levels of the reduction fleet.

3. An upper limit to DAH is obtained by adding processing capacity (363,385 tons) and the expected live bait harvest (8,500 tons) for a total of 371,885 short tons.

The amendment further establishes relationships between OY, DAH, and DAP on an annual basis as follows:

1. When OY is equal to or less than 371,885 short tons, (1) DAH is equal to OY and (2) DAP is OY minus 8,500 short tons, since the live-bait harvest of 8,500 tons is not processed.

2. When OY is greater than 371,885 short tons, DAH is 371,885 short tons and DAP is 363,885 short tons.

The proposed amendment notes that these relationships will be closely monitored and reconsidered by the Council if there is a substantial change in fleet capacity or processing capacity, or if foreign processing vessels demonstrate a desire and intent to purchase anchovies from U.S. fishing vessels in the fishery conservation zone.

The amendment is consistent with the National Standards, the Act, and other applicable law. The amendment will not have an environmental impact on the stocks or the physical environment, or on any of the various sectors of the fishery, because the basic formulas specified in the FMP for deriving optimium yield and quotas in the anchovy fishery remain unchanged. Thus, there is no need to supplement the Environmental Impact Statement. Since the amendment does not require a regulatory amendment, there will be no additional regulations issued which would require a determination of significance under Executive Order 12044, or action under the Administrative Procedures Act.

Signed in Washington, D.C., this 11th day of July, 1979.

Dated: July 11, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

Amendment to the FMP

The FMP for the northern anchovy fishery is amended as follows:

5.0. Harvesting and Processing Capacity.

Replace all of Section 5.0 with the following:

Section 303(a)(4) of the Fishery Conservation and Management Act (Pub. L. 94–265 as amended by Pub. L. 95–354) requires that certain estimates and predictions be made regarding the U.S. harvesting and processing capacity. In particular, each fishery management plan is to assess and specify (1) the capacity and extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield; (2) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing; and (3) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States.

The first point requires that two questions be addressed: What is the fleet capable of harvesting? and What is the fleet expected to harvest? The capacity of the fleet represents the maximum amount the fleet could take. This maximum depends upon measurable physical characteristics. The extent to which the fleet will harvest anchovies, however, depends upon economic conditions and upon the availability of anchovies and other pelagic species within the range of the fleet. The second point simply requires that the expected domestic harvest be subtracted from the optimum yield to arrive at the Total Allowable Level of Foreign Fishing. This

procedure is described in more detail in Section 7.0. The third requirement extends the capacity and extent assessment to the processing sector of the industry. The capacities of the fishing fleet and the processors are estimated below in Sections 5.1 and 5.2, respectively. The extent to which domestic fishing vessels will catch anchovies, and the extent to which domestic processors will process the harvest are discussed in Section 5.3.

5.1. *Domestic harvesting capacity.* Because of the quotas, past harvests do not reflect the fleet's capacity. A simple estimate of the domestic reduction fleet capacity is based upon the hold capacities of the vessels as presented in Table 5.1. Only those vessels harvesting at least 10 tons of anchovies in either 1975 or 1976 are included in the estimate. The hold capacities for twenty-four of the most active anchovy reduction fishing vessels were estimated by California Department of Fish and Game employees in Long Beach, California. For these 24 vessels, an empirical relationship between estimated hold capacity and vessel length is

$$\text{Capacity} = -75.68 + 2.4\,\text{length} + .00155\,(\text{length})^2.$$

(This is an ordinary least squares fit with $R^2 = .80$.) Hold capacities for 31 vessels not included in the CF&G examination were estimated by use of this relationship. The estimated fleet hold capacity north of Pt. Buchon is 753 short tons, and in the south is 3,749 short tons. The absolute maximum that this fleet could catch is estimated by assuming each vessel fills its hold 6 days per week during the entire reduction fishery season (228 days in the North and 192 days in the South). The resulting annual harvest capacity is 891,492 short tons.

Unlike the anchovy reduction fishery, the live-bait fishery has never been restricted by a catch quota. It is reasonable, therefore, to use the largest annual catch in the past as an estimate of the live-bait fleet capacity. The largest reported harvest was 7,324 short tons in 1968. It is known, however, that some live-bait dealers do not participate in the live-bait reporting program of California Department of Fish and Game. To account for the moderate amount of live-bait catch that was unreported, the estimate of live-bait fishing capacity should be somewhat greater than the largest past catch. Estimated capacity of the live-bait fleet is 8,500 short tons.

Anchovy reduction fishery vessels catch the small amounts of fish used for frozen bait and human consumption. Therefore, no additional capacity needs to be added to account for the other uses. The total estimated harvesting capacity for the combined reduction and live-bait fleet is 899,992 short tons.

5.2. *Processing capacity.* Nominal production capacity for a fish meal reduction plant is expressed as a quantity of anchovies processed per hour or per day. The total daily capacity of the fish meal plants in California is estimated to be 2,500 short tons. If this rate of production could be maintained 6 days a week for a 32-week reduction season, the annual production capacity would be 480,000 short tons. However, there are many factors other than nominal plant capacity that affect the processor's maximum production capability. Unloading facilities and storage facilities are two other components that significantly contribute to a company's ability to handle large amounts of anchovies for reduction. The nominal annual reduction capacity, therefore, is probably an over-estimate of the amount the domestic anchovy reduction processors could handle.

A more realistic estimate of the processing capacity can be based upon the actual maximum rates of production observed in the recent past. Tables 5.2 and 5.3 summarize the pertinent information for both the northern and southern permit areas. The largest weekly landing in the northern area during the five fishing seasons from 1973/74 to 1977/78 was 920 short tons. In the southern permit area the largest weekly landing was 10,100 tons. If the northern plants operate at the maximum rate for the full 39 weeks of the reduction fishing season, the northern area processing capacity is 35,880 short tons. In the southern area 323,200 short tons of anchovies would be processed annually if the reduction plants produced at the maximum observed rate. Total domestic reduction capacity is, therefore, estimated to be 359,080 short tons per year.

Anchovies are also processed for human consumption and frozen bait. Since the harvests of anchovies for these uses has not been restricted by regulations, it is assumed that the largest annual amount processed in recent years is a good estimate of the capacity. During the 1967–1976 period, the quantity of anchovies landed for non-reduction use varied between 1164 and 4305 short tons. Although the average annual non-reduction landing was 2297 short tons, the capacity for processing must be at least 4305 tons. Thus the estimated processing capacity for anchovies (i.e., the sum of the reduction and non-reduction processing capacities) is 363,385 short tons.

5.3 *Expected domestic annual harvest and processing.* Neither the harvesting nor the processing capacity of the domestic fishery is expected to be fully utilized every year. The degree to which capacities are expected to be utilized varies among the fishery sectors and will vary from year to year. Live-bait fishing vessels are expected to harvest 8,500 short tons per year. Annual landings for frozen bait and human consumption are expected to equal the estimated capacity of 4,305 short tons. But annual reduction fishery landings are expected to be far less than the fleet capacity of 898,992. The two main constraints on the reduction fishery are (1) the annual quota, and (2) the reduction processing capacity. When the annual reduction quota is less than the processing capacity, the fleet may be expected to take the entire quota. When the annual reduction quota exceeds the domestic capacity for reduction processing, the domestic reduction harvest is expected to equal the reduction processing capacity. Total expected annual harvest will vary with the annual anchovy optimum yield as follows:

(1) When the optimum yield is less than the sum of the reduction and non-reduction processing capacity (363,385 short tons) and the expected live-bait harvest (8,500 short tons), the expected domestic annual harvest equals the optimum yield.

(2) When the optimum yield exceeds the sum of the reduction and non-reduction capacity and expected live-bait harvest, the expected domestic annual harvest equals 371,885.

Except for the live-bait catch, it is expected that all the domestic harvest will be processed by domestic processors. Live-bait remains in bait receivers and bait wells, and is therefore not processed per se. The expected level of domestic anchovy processing is equal to the expected domestic annual harvest minus the expected live-bait catch of 8,500 short tons.

Using the above formulation, the Secretary of Commerce will be able to determine the expected domestic annual harvest each year. This formula will be appropriate only until one of the following changes occur:

(1) A substantial alteration in domestic fleet capacity, or

(2) A substantial alteration in domestic processing capacity, or

(3) Foreign processors become active buyers of domestic anchovy harvests in the FCZ.

The Council will review and monitor the factors influencing the expected annual harvest and level of processing, placing special attention on the three items listed above. When these estimates need to be changed, the Council will submit a proposed amendment to the Plan incorporating a new formulation for expected domestic harvest and processing.

Table 5.1.—*The Anchovy Reduction Fishing Fleet During 1975 and 1976*

[Analysis of capacity]

	Number of vessels [1]	Hold capacity	Maximum catch in full season
		Short tons	
Northern area	17	753	171,684
Southern area	38	3,749	719,808
Total	55	4,542	891,492

[1] Vessels landing at least 10 tons of anchovies.

Source: California Dept. of Fish and Game, unpublished data.

Table 5.2.—*Characteristics of the Reduction Fishery in the Northern Area, 1973/74–1977/78*

	No. weeks in open season	No. weeks fish landed	Average landings per week [1]	Maximum weekly landings	Total annual landings
			Short tons		
1973/74 [2]	38	20	226	541	4,528
1974/75	40	18	375	920	6,753
1975/76	40	18	294	671	5,284
1976/77	41	21	238	641	5,007
1977/78	39	17	395	780	6,722

[1] Average for weeks fish landed, not for weeks of open season.
[2] Catch from north of Pt. Conception landed in southern California during August 1 to September 15 is included in southern area.
Source: California Department of Fish and Game, weekly Anchovy Reduction Reports.

Table 5.3.—*Characteristics of the Reduction Fishery in the Southern Area, 1973/74–1977/78*

	No. weeks in open season	No. weeks fish landed	Average landings per week [1]	Maximum weekly landings	Total annual landings
			Short tons		
1973/74 [2]	36	28	3,226	8,625	116,126
1974/75	35	33	3,329	6,489	109,849
1975/76	37	35	3,879	9,681	135,752
1976/77	35	31	3,270	10,100	101,360
1977/78	35	19	3,606	8,258	68,506

[1] Average for weeks fished, not for weeks of open season.
[2] Catch from north of Pt. Conception landed in southern California included here.
Source: California Department of Fish and Game, weekly Anchovy Reduction Reports.

7.0. *Total Allowable Level of Foreign Fishing (TALFF).*

Replace section 7.0 with the following:

Section 201(d) of the FCMA defines the TALFF for each fishery as "that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States." Because the optimum yield from the central subpopulation of northern anchovy, as defined in Section 6.6 above, varies annually, the TALFF must also vary annually. In the U.S. zone the foreign fishery may be allowed to take that portion of the optimum yield in excess of the expected domestic annual havest defined in Section 5.3. above. The formula for determining TALFF on an annual basis is expressed in the following two statements:

(1) If the optimum yield in the FCZ is less than 371,885 short tons, TALFF is zero.

(2) If the optimum yield in the FCZ is greater than 371,885 short tons, TALFF equals optimum yield less 371,885 short tons.

The above formula for determining TALFF will be approriate only until one of the following changes occurs:

(1) A substantial alteration in domestic fleet capacity, or

(2) A substantial alteration in domestic processing capacity, or

(3) Foreign processors become active buyers of domestic anchovy harvests in the FCZ.

The Council will monitor and review the factors influencing the expected annual harvest, level of processing, and TALFF, placing special attention on the three items listed above. When these estimates need to be changed, the Council will submit a proposed amendment to the Plan incorporating a new formualtion for TALFF.

8.7.1. *Domestic fishery.*

*Add following "d. Date and landing * * * by processors."*

e. Estimated processing capacity and actual processing capacity utilized by U.S. processors of northern anchovies.

8.10. *Procedure to Announce Harvest Quota and Total Allowable Level of Foreign Fishing.*

*Replace paragraph beginning with "2. For the 1978–79 fishing year * * *" with the following:*

2. As explained in Section 7.0, the estimated domestic annual harvest (see Sec. 5.3) is subtracted from the U.S. portion of the OY to determine the total allowable level of foreign fishing. The resulting figure will be announced in the **Federal Register** along with the preliminary estimates of spawning biomass and optimum yield.

[FR Doc. 79-21916 Filed 7-17-79; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 44, No. 139
Wednesday, July 18, 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 29]

U.S. Type 31—Burley Tobacco; Experimental Sales of Burley Tobacco in Untied Form

Correction

In FR Doc. 79–21344, appearing at page 40608 in the issue for Wednesday, July 11, 1979, on page 40609, in § 29.3050, in the eighth line, insert "quantity" between the words "substantial" and "of".

BILLING CODE 1505-01-M

Federal Crop Insurance Corporation

[7 CFR Part 420]

Proposed Grain Sorghum Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring grain sorghum crops effective with the 1980 crop year. This rule combines provisions from previous regulations for insuring grain sorghum in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than August 17, 1979, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096 South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

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

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that there be established a new Part 420 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 420, Grain Sorghum Crop Insurance.

This part prescribes procedures for insuring grain sorghum crops effective with the 1980 crop year.

All previous regulations applicable to insuring grain sorghum crops as found in 7 CFR 401.101–401.111, and 401.129, will not be applicable to 1980 and succeeding grain sorghum crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) grain sorghum insurance policies issued for the crops years prior to 1980.

It has been determined that combining all previous regulations for insuring grain sorghum crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, proposed 7 CFR Part 420 provides (1) for a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) for the consolidation of termination for indebtedness dates to the extent possible, (3) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (4) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (5) that the 60-day time period for filing a claim be eliminated, (6) that three coverage level options be offered in each county, (7) that the Actuarial Table shall provide the level which will be applicable to a contract unless a different level is selected by the insured and the conversion level will be the one closest to the present percent level offered in each county, and (8) for an increase in the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR 420.5 of these proposed regulations, wherein the Manager of the Corporation is authorized to take action to grant relief.

The proposed Grain Sorghum Crop Insurance regulations provide a September 30 cancellation date for certain south Texas counties. These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date.

This proposed rule has not been classified "significant" and is being published under emergency procedures, as authorized by Executive Order No. 12044 and Secretary's Memorandum No. 1955, without a full 60-day comment period. It has been determined by James D. Deal, Manager, Federal Crop Insurance Corporation, that an emergency situation exists which warrants less than a full 60-day comment period on this proposal because certain grain sorghum crops will be planted shortly in those south Texas counties referred to above and the final regulations and policies covering these crops must be published and be available in the FCIC county offices serving those counties by not later than September 15, 1979, to afford farmers an opportunity to examine them before the cancellation date of September 30, 1979, before they become effective for the 1980 crop year.

Accordingly, the public shall on or before August 17, 1979 submit written comments on this proposal.

All written submissions made pursuant to this notice will be available for public inspection at the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR 401.129, but these provisions shall remain in effect for FCIC grain sorghum insurance policies issued for crop years prior to 1980. The Corporation also proposes to issue a new Part 420 in

Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of grain sorghum, which shall remain in effect until amended or superseded, to read as follows:

PART 420—GRAIN SORGHUM CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

420.1 Availability of Grain Sorghum Insurance.
420.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
420.3 Public notice of indemnities paid.
420.4 Creditors.
420.5 Good faith reliance on misrepresentation.
420.6 The contract.
420.7 The application and policy.

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

Subpart—Regulations for the 1980 and Succeeding Crop Years

§ 420.1 Availability of grain sorghum insurance.

Insurance shall be offered under the provisions of this subpart on grain sorghum in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which grain sorghum insurance will be offered.

§ 420.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for grain sorghum which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price election at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 420.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 420.4 Creditors

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 420.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the grain sorghum insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 420.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the grain sorghum crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 420.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the grain sorghum crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract form provided for under this subpart will come into effect as a continuation of a grain sorghum contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Grain Sorghum Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Grain Sorghum Insurance Policy are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corp.

Application for 19— and Succeeding Crop Years

GRAIN SORGHUM

Crop Insurance Contract

_____

_____

_____

(Name and address) (Zip Code)
Type of Entity _____

_____

(Contract Number)

_____

(Identification Number)

_____

(County)

_____

(State)

Applicant is over 18 Yes——; No——

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the grain sorghum planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. The premium rates and production guarantees shall be those shown on the applicable county actuarial table filed in the office for the county for each crop year.

Level Election ——————————

Price Election ——————————

Example: For the 19— Crop Year Only (100% Share)

Location Farm No.	Guarantee Per Acre*	Premium Per Acre**	Practice
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

*Your guarantee will be based on the unit (acres X per acre guarantee)

**Your premium is subject to adjustment in accordance with section 5 of the policy.

B. When notice of acceptance of this application is mailed to the applicant by the corporation, the contract shall be in effect for the first crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until canceled or terminated as provided in the contract. This accepted application, the following grain sorghum insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

——————————

(Code No./Witness to signature)

——————————

(Signature of Applicant)

——————————,

19——————

(Date)

Address of office for county:

——————————

Phone ——————————

Location of farm headquarters:

——————————

Phone ——————————

Grain Sorghum Crop Insurance Policy

Terms and conditions

Subject to the provisions in the attached appendix:

1. *Causes of loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good framing practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and acreage insured.* (a) The crops insured shall be grain sorghum which is grown on insured acreage and for which the actuarial table shows a guarantee and premium rate per acre, and which is initially planted (1) to a combine-type hybrid grain sorghum, as determined by the Corporation, and (2) in rows far enough apart to permit cultivation if planted on land not insured on an irrigated basis; *however*, if such acreage is destroyed and replanted after the final planting date to any grain sorghum or in any planting pattern, it shall be regarded as insured acreage and not as acreage put to another use.

(b) The acreage insured for each crop year shall be that acreage planted to grain sorghum on insurable acreage as shown on the acturial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided*, That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the acturial table, (3) which is destroyed and after such destruction it was practical to replant to grain sorghum and such acreage was not replanted, (4) initially planted after the date on file in the office for the county which has been established by the Corporation as being too late to initially plant and expect a normal crop to be produced, (5) of volunteer grain sorghum, (6) on which it is determined by the Corporation that the sorghum is a forage sorghum or initially thick planted for silage or fodder, (7) which is nonirrigated and from which a hay crop was harvested or a small grain crop reached the heading stage in the same calendar year, or (8) planted to a type or variety of grain sorghum not established as adapted to the area or shown as noninsurable on the actuarial table.

(c) Insurance may attach only by written agreement with the Corporation on acreage which is planted for the development or production of hybrid seed or for experiemental purposes.

3. *Responsibility of insured to report acreage and share.* The insured shall sumit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of grain sorghum planted in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of planting. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. *Production guarantees, coverage levels, and prices for computing indemnities.* (a) For each crop year of the contract, the production guarntees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced by the lesser of 5 bushels or 20 percent for any unharveted acreage.

5. *Annual premium.* (a) The annual premium is earned and payable at the time of planting and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of planting, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance period.* Insurance on insured acreage shall attach at the time the grain sorghum is *planted* and shall cease upon the earliest of (a) final adjustment of a loss, (b) combining, threshing, or removal of the grain sorghum from the field, (c) total destruction of the insured grain sorghum crop, or (d) the applicable date as set forth below immediately following the beginning of the normal harvest period:

Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit Counties, Texas, and all Texas counties lying south thereof—Sep. 30.

All other counties—Dec. 31.

7. *Notice of damage or loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the grain sorghum on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to grain sorghum. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 days* after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire grain sorghum crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of grain sorghum on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of grain sorghum on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of grain sorghum to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Mature production which grades No. 4 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 14.0 percent; and if, due to insurable causes, any grain sorghum does not grade No. 4 or better in accordance with the Official U.S. Grain Standards, the production shall be adjusted by (i) dividing the value per bushel of the damaged grain sorghum (as determined by the Corporation) by the price per bushel of U.S. No. 2 grain sorghum and (ii) multiplying the result by the number of bushels of such grain sorghum. The applicable price for No. 2 grain sorghum shall be the local market price on the earlier of: the day the loss is adjusted or the day the damaged grain sorghum was sold.

(2) Appraised production to be counted shall include: (i) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (ii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iii) only the appraisal in excess of the lesser of 5 bushels or 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However,* if consent is given to put acreage to another use and the Corporation determine that any such acreage (1) is not put to another use before harvest of grain sorghum becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of insured share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. Records and access to farm. The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all grain sorghum produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. Life of contract: Cancellation and termination. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

County	Cancellation date	Termination date for indebtedness
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit Counties, Texas, and all Texas counties lying south thereof.	September 30	January 31.
All other counties	December 31	March 31.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix (Additional Terms and Conditions)

1. *Meaning of Terms.* For the purposes of grain sorghum crop insurance:

(a) "Acturial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding grain sorghum insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the grain sorghum crop is normally grown and shall be designated by the calendar year in which the grain sorghum crop is normally harvested.

(d) "Harvest" means the severance of matter grain sorghum from the land for combining or threshing.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county acturial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured grain sorghum crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the grain sorghum crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of grain sorghum in the county on the date of planting for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the grain sorghum crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage insured.* (a) The Corporation reserves the right to limit the insured acreage of grain sorghum to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the seeding of grain sorghum.

(b) If the insured does not submit an acreage report on or before the date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Irrigated acreage.* (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment of facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. *Annual premium.* (a) if there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however*, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and payment of indemnity.* (a) Any claim for indemnity on a unit shall by submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured grain sorghum acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However*, in no event shall the Corporation by liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the grain sorghum is seeded for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation.* The insured (including any assignee or transferee) assign to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the contract.* (a) The contract shall terminate if no premium is earned for five consective years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the

insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. *Coverage level and price election.* (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and price election for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of indemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

This proposal has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A–40.

Approved by the Board of Directors on July 10, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79–22159 Filed 7–17–79; 8:45 am]

BILLING CODE 3410–08–M

[7 CFR Part 421]

Proposed Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring cotton crops effective with the 1980 crop year. This rule combines provisions from previous regulations for insuring cotton in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than August 17, 1979, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

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

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that there be established a new Part 421 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 421, Cotton Crop Insurance.

This part prescribes procedures for insuring cotton crops effective with the 1980 crop year.

All previous regulations applicable to insuring cotton crops as found in 7 CFR 401.101–401.111, and 401.136, will not be applicable to 1980 and succeeding cotton crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) cotton insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring cotton crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, proposed 7 CFR Part 421 provides (1) for a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) for the consolidation of termination for indebtedness dates to the extent possible, (3) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (4) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (5) that the 60-day time period for filing a claim be eliminated, (6) that coverage level options be offered in each county, (7) that the Actuarial Table shall provide the level which will be applicable to a contract unless a different level is selected by the insured and the conversion level will be the one closest to the present percent level offered in each county, (8) for an increase in the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR 421.5 of these proposed regulations, wherein the Manager of the Corporation is authorized to take action to grant relief, and (9) that the terms "sharecropper" and "share tenant" be eliminated.

The proposed Cotton Crop Insurance regulations provide a September 30 cancellation date for certain south Texas counties. These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date.

This proposed rule has not been classified "significant" and is being published under emergency procedures, as authorized by Executive Order No. 12044 and Secretary's Memorandum No. 1955, without a full 60-day comment period. It has been determined by James D. Deal, Manager, Federal Crop Insurance Corporation, that an emergency situation exists which warrants less than a full 60-day comment on this proposal because certain cotton crops will be planted shortly in those south Texas counties referred to above and the final regulations and policies covering these crops must be published and be available in the FCIC county offices serving those counties by not later than September 15, 1979, to afford farmers an opportunity to examine them before the cancellation date of September 30, 1979, before they become effective for the 1980 crop year.

Accordingly, the public shall on or before August 17, 1979, submit written comments on this proposal.

All written submissions made pursuant to this notice will be available for public inspection at the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR 401.136, but these provisions shall remain in effect for FCIC cotton insurance policies issued for crop years prior to 1980. The Corporation also proposes to issue a new Part 421 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of cotton, which shall remain in effect until amended or superseded, to read as follows:

PART 421—COTTON CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

421.1 Availability of cotton insurance.
421.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
421.3 Public notice of indemnities paid.
421.4 Creditors.
421.5 Good faith reliance on misrepresentation.
421.6 The contract.
421.7 The application and policy.

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

Subpart—Regulations for the 1980 and Succeeding Crop Years

§ 421.1 Availability of cotton insurance.

Insurance shall be offered under the provisions of this subpart on cotton in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which cotton insurance will be offered.

§ 421.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be comnputed for cotton which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 421.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 421.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 421.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the cotton insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured peson is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 421.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date of the notice of acceptance is mailed to the applicant. The contract shall cover the cotton crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 421.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the cotton crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a cotton contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Cotton Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Cotton Insurance Policy are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Application for 19— and Succeeding Crop Years

Cotton
Crop Insurance Contract

_____

_____

_____

(Name and Address) (Zip Code)
Type of entity _____ ___

_____

(Contract Number)

_____

(Identification Number)

_____

(County)

_____

(State)
Applicant is over 18 Yes— No—

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the cotton planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. The premium rates and production guarantees shall be those shown on the applicable county actuarial table filed in the office for the county for each crop year.
Level Election _____
Price Election _____

Example: For the 19— Crop Year Only (100% Share)

Location Farm No.	Guarantee Per Acre*	Premium Per Acre**	Practice

*Your guarantee will be based on the unit (acres X per acre guarantee)

**Your premium is subject to adjustment in accordance with section 5 of the policy.

B. When notice of acceptance of this application is mailed to the applicant by the Corporation, the contract shall be in effect for the first crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until canceled or terminated as provided in the contract. This accepted application, the following cotton insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

_____

(Code No./witness to signature)

_____

(Signature of applicant)

_____, 19—

(Date)
Address of office for county:

_____

Phone _____
Location of farm headquarters:

_____

Phone _____

Cotton Crop Insurance Policy

Terms and conditions

Subject to the provisions in the attached appendix:

1. Causes of loss. (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with causes of loss that are shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. Crop and acreage insured. (a) The crop insured shall be American Upland lint cotton for which the actuarial table shows a guarantee and premium rate per acre, and which is grown on insured acreage.

(b) The acreage insured for each crop year shall be that acreage planted to cotton on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect. The acreage insured of skip-row planting shall be the acreage occupied by the rows of cotton and eliminating the skipped-row portions, as determined by the Corporation: *Provided*, That insurance shall not attach or be considered to have attached as determined by the Corporation to any acreage (1) which is nonirrigated and from which a hay crop was harvested or a small grain crop reached the heading stage in the same calendar year, (2) which is new ground acreage, (3) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (4) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table, (5) which is destroyed and after such destruction it was practical to replant to cotton and such acreage was not replanted, (6) initially planted after the date on file in the office for the county which has been established by the Corporation as being too late to initially plant and expect a normal crop to be produced, or (7) planted to a type or variety not established as adapted to the area or shown as noninsurable on the actuarial table.

(c) Insurance may attach only by written agreement with the Corporation on acreage which is planted for the development or production of hybrid seed or for experimental purposes.

3. Responsibility of insured to report acreage and share. The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of cotton planted in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of planting. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. Production guarantees, coverage levels, and prices for computing indemnities. (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantees per acre shown on the actuarial table are progressive as follows: (1) First Stage—after it is too late to plant to cotton until the first blooms are shed and also applicable to any acreage that the Corporation determines was damaged in this stage to the extent that growers in the area usually would not further care for the crop, (2) Second Stage—after the first blooms are shed and *until* acreage qualifies for the Third Stage, or (3) Third Stage—after harvest of at least 20 percent of the pound guarantee per acre for this stage. The production guarantee applicable to any acreage within a unit shall be that established for the stage reached by the crop on such acreage as determined by the Corporation.

5. Annual premium. (a) The annual premium is earned and payable at the time of planting and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of planting, times the premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

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% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE																
	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE																
	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent per annum simple interest shall apply from the termination date and to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. Insurance period. Insurance on insured acreage shall attach at the time the cotton is planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) removal from the field or upon being housed, (c) total destruction of the cotton crop, or (d) the date shown below immediately following the beginning of the normal harvest period:

Arizona and California	Jan.31
Texas:	
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit Counties, Texas, and all Texas counties lying south thereof	Sep. 30
All other Texas counties	Dec. 31
All other States	Dec. 31

7. Notice of damage or loss. (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the cotton on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to cotton. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if a loss is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 DAYS* after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurnace period, or (3) the date the entire cotton crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. Claim for indenmity. (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of cotton on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of cotton on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of cotton to be counted for the unit, (3) mulitplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production: *Provided:* That for acreage not qualifying for the third stage production guarantee, only the amount of appraised and harvested production in excess of the difference between the third stage production guarantee and the production guarantee applicable to such acreage shall be counted except that for acreage abandoned, put to another use without prior written consent of the Corporation, or damaged solely by an uninsured cause not less than the applicable production guarantee shall be counted.

(1) The total production to be counted for any unit shall not incude any harvested production destroyed due to insurable causes occuring within the insurance period before being housed or removed from the field.

(2) Any harvested production shall be reduced when, due solely to insured causes, the quality of the cotton produced is such that, on the date the final notice of loss is given by the insured, the price quotation for cotton of like quality (price quotation "A") at the applicable spot market, as determined by the Corporation, is less than 75 percent of price quotation "B". Price quotation "B" shall be that day's spot market price quotation at the same market for cotton of the grade, staple length, and micronaire reading shown on the actuarial table for this purpose. In such cases, the pounds of production to be counted shall be determined by multiplying the actual number of pounds of such production by price quotation "A" and dividing the result by 75 percent of price quotation "B".

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However,* If consent is given to put acreage to another use and the Corporation determines that any second stage acreage (1) is not put to another use before harvest of cotton becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

(e) The cotton stalks on any acreage with respect to which an indemnity is claimed shall not be destroyed until consent is given by the Corporation. For any acreage on which the stalks have been destroyed prior to such consent, the corporation shall have the right to make an appraisal on such acreage of not less than the third-stage guarantee.

9. Misrepresentation and fraud. The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. Transfer of insured share. If the insured tranfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the orginal insured for the current crop year. Any transfer shall be made on an approved form.

11. Records and access to farm. The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all cotton produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. Life of contract: Cancellation and termination. (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to

any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

County	Cancellation date	Termination date for indebtedness
Jackson, Victoria, Goliad, Bee, McMullen, La Salle, and Dimmit Counties, Texas, and all Texas counties lying south thereof.	September 30	January 31.
All other counties	December 31	March 31.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix

Additional Terms and Conditions

1. Meaning of terms. For the purposes of cotton crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding cotton insurance in the county.

(b) "Cotton" means only American Upland Cotton.

(c) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(d) "Crop year" means the period within which the cotton crop is normally grown and shall be designated by the calendar year in which the cotton crop is normally harvested.

(e) "Harvest" means the removal of seed cotton from the open cotton boll or the severance of the open cotton boll from the stalk by either manual or mechanical means.

(f) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(g) "Insured" means the person who submitted the application accepted by the Corporation.

(h) "New ground acreage" in all States except Arizona, California, and New Mexico, means acreage on which it was necessary to remove or deaden timber and remove undergrowth to carry out established cultural practices. Pasture land, other than woodland pasture, cleared of underbrush and brought into cultivation will not be considered new ground acreage. In Arizona, California, and New Mexico, "new ground acreage" means any acreage which has not been planted to a crop in any one of the previous three crop years, except that acreage in tame hay or rotation pasture during the previous crop year shall not be considered new ground acreage.

(i) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(j) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(k) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured cotton crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(l) "Spot market" means a market so designated by the Secretary of Agriculture by Regulation (7 CFR 27.93) pursuant to 26 U.S.C. 4862.

(m) "Tenant" means a person who rents land from another person for a share of the cotton crop or proceeds therefrom.

(n) "Unit" means all insurable acreage of cotton in the county on the date of planting for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the cotton crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bond fide share of the insured or any other person having the bona fide share.

2. Acreage insured. (a) The Corporation reserves the right to limit the insured acreage of cotton to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of cotton.

(b) If the insured does not submit an acreage report on or before the date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. Irrigated acreage. (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. Annual premium. (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. Claim for and payment of indemnity. (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured cotton acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7

U.S.C. 1508(c): *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However*, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the cotton is planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. Subrogation. The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. Termination of the contract. (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. Coverage level and price election. (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and price election for any crop year on or before the closing date for submitting applications for that crop year.

9. Assignment of indemnity. Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. Contract changes. The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

This proposal has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

Note.—The reporting 1requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A–40.

Approved by the Board of Directors on July 10, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79–22160 Filed 7–17–79; 8:45 am]

BILLING CODE 3410–08–M

[7 CFR Part 427]

Proposed Oat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring oat crops effective with the 1980 crop year. This rule combines provisions from previous regulations for insuring oats in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than September 17, 1979, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

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

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that there be established a new Part 427 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 427, Oat Crop Insurance.

This part prescribes procedures for insuring oat crops effective with the 1980 crop year.

All previous regulations applicable to insuring oat crops as found in 7 CFR 401.101–401.111, and 401.130, will not be applicable to 1980 and succeeding oat crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) oat insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring oat crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, proposed 7 CFR Part 427 provides (1) for a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) that the production guarantees will now be shown on a harvested basis with a reduction of the lesser of 6 bushels or 20 percent of the guarantee for any unharvested acreage, (3) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (4) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (5) that the 60-day time period for filing a claim be eliminated, (6) that three coverage level options be offered in each county, (7) that the Actuarial Table shall provide the level which will be applicable to a contract unless a different level is selected by the insured and the conversion level will be the one closest to the present percent level offered in each county, and (8) for an increase in the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR 427.5 of these proposed regulations, wherein the Manager of the

Corporation is authorized to take action to grant relief.

The proposed Oat Crop Insurance regulations provide a December 31 cancellation date for all oat producing counties.

These regulations, and any amendments thereto, must by placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date, in order to afford farmers an opportunity to examine them before the cancellation date of December 31, 1979, before they become effective for the 1980 crop year.

All written submissions made pursuant to this notice will be available for public inspection at the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR 401.130, but these provisions shall remain in effect for FCIC oat insurance policies issued for crop years prior to 1980. The Corporation also proposes to issue a new Part 427 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of oats, which shall remain in effect until amended or superseded, to read as follows:

PART 427—OAT CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

427.1 Availability of Oat Insurance.
427.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
427.3 Public notice of indemnities paid.
427.4 Creditors.
427.5 Good faith reliance on misrepresentation.
427.6 The contract.
427.7 The applications and policy.

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

Subpart—Regulations for the 1980 and Succeeding Crop Years

§ 427.1 Availability of oat insurance.

Insurance shall be offered under the provisions of this subpart on oats in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which oat insurance will be offered.

§ 427.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for oats which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 427.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 427.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 427.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the oat insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice or by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 427.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 427.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the oat crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of an oat contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Oat Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Oat Insurance Policy are as follows:

U.S Department of Agriculuture

Federal Crop Insurance Corporation

Application for 19— and Succeeding Crop Years

Oat
Crop Insurance Contract

_____

_____

_____

(Name and Address) (ZIP Code)
Type of entity _____

_____

(Contract Number)

_____

(Identification Number)

_____

(County)

_____

(State)
Applicant is over 18 Yes— No—

A. The applicant, subject to the provisons of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the oats planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. The premium rates and production guarantees shall be those shown on the applicable county actuarial table filed in the office for the county for each crop year.

Level election _____
Price Election _____

Example: For the 19— Crop Year Only (100% Share)

Location Farm No.	Guarantee Per Acre*	Premium Per Acre**	Practice

*Your guarantee will be based on the unit (acres X per acre guarantee)

**Your premium is subject to adjustment in accordance with section 5 of the policy.

B. When notice of acceptance of this application is mailed to the applicant by the corporation, the contract shall be in effect for the first crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until canceled or terminated as provided in the contract. This accepted application, the following oat insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

_____

(Code No./witness to signature

_____

(Signature of applicant)

_____

_____, 19—

(Date)
Address of office for county:

_____

Phone _____
Oat Crop Insurance Policy
Location of Farm Headquarters:

_____

Phone _____

Terms and Conditions

Subject to the provisions in the attached appendix:

1. Causes of Loss.—(a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. Group and Acreage Insured.—(a) The crop insured shall be oats seeded for harvest as grain, oats seeded in the same manner for harvest as silage or hay, and grain mixtures in which oats is the predominant grain, and for which the actuarial table shows a guarantee and premium rate per acre, and which is grown on insured acreage.

(b) The acreage insured for each crop year shall be that acreage seeded to oats on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That insurance shall not attach or be considered to have attached as determined by the Corporation to any acreage (1) on which the oats were seeded with flax or vetch, (2) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (3) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table, (4) which is destroyed and after such destruction it was practical to reseed to oats and such acreage was not reseeded, (5) initially seeded after the date on file in the office for the county which has been established by the Corporation as being too late to initially seed and expect a normal crop to be produced, (6) of volunteer oats, (7) seeded to a type or variety of oats not established as adapted to the area or shown as noninsurable on the actuarial table.

(c) Insurance may attach only by written agreement with the Corporation on acreage which is seeded for the development or production of hybrid seed or for experimental purposes.

3. Responsibility of insured to report acreage and share.—The insured shall submit to the corporation on a form prescribed by the Corporation, a report showing (a) all acreage of oats seeded in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share, and (b) the insured's share therein at the time of seeding. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.—(a) For each year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced by the lesser of 6 bushels or 20 percent for any unharvested acreage.

5. Annual Premium.—(a) The annual premium is earned and payable at the time of seeding and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of seeding, times the premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE

	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE

	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indeminity: *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall by increased by a 9 percent service fee, which increased amount shall be the premium balance. If such preminum balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indeminity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. Insurance Period.—Insurance on insured acreage shall attach at the time the oats are seeded and shall cease upon the earliest of (a) final adjustment of a loss, (b) threshing, harvesting for silage or hay, or removal from the field, (c) October 31 of the calendar year in which oats are normally harvested, or (d) total destruction of the insured oat crop.

7. Notice of Damage or Loss.—(a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the oats on any unit are damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, if the insured wants the consent of the Corporation to put the acreage to another use, or if the insured decides to harvest the crop for silage or hay. Pursuant to such notice, the Corporation shall appraise the potential grain production. *However,* if the Corporation is unable to do so prior to harvest, the insured may harvest the crop provided representative areas are left for appraisal purposes. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to reseed to oats. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice therof to the Corporation at the office for the county not later than *30 DAYS* after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire oat crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. Claim for Indemnity.—(a) it shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of oats on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of oats on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of oats to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share; *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Mature production which grades No. 4 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 14.0 percent; and if, due to insurable causes, any oats do not grade No. 4 or better, or are graded smutty, garlicky, or ergoty, in accordance with the Official U.S. Grain Standards, the production shall be adjusted by (i) dividing the value per bushel of the damaged oats (as determined by the Corporation) by the price per bushel of U.S. No. 2 oats and (ii) multiplying the result by the number of bushels of such oats. The applicable price for No. 2 oats shall be the local market price on the earlier of: the day the loss is adjusted or the day the damaged oats were sold.

(2) Any harvested production from volunteer crops growing with the seeded oat crop or small grains seeded in the growing oat crop on acreage which the Corporation has not given consent to be put to another use shall be counted as oats on a weight basis.

(3) Appraised production to be counted shall include: (i) the greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation is seeded before oat harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding any crop(s) maturing for harvest in the following calendar year), (ii) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (iii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iv) only the appraisal in excess of the lesser of 6 bushels or 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However,* if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of oats becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. Misrepresentation and Fraud.—The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. Transfer of insured share. If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. Records and access to farm. The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all oats produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. Life of contract: Cancellation and termination. (a) The contract shall be in effect for the crop year specified on the application and may not be cancelled for such crop year. Thereafter, either party may cancel insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on

or before the termination date for indebtedness preceding such crop year: *Provided*, That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

County	Cancellation date	Termination date for indebtedness
All counties	December 31	March 31.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix (Additional Terms and Conditions)

1. Meaning of Terms.—For the purposes of oat crop insurance:

(a) "Acturial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding oat insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the oat crop is normally grown and shall be designated by the calendar year in which the oat crop is normally harvested.

(d) "Harvest" means the severance of mature oats from the land for threshing, hay or silage.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured oat crop at the time of seeding as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means the person who rents land from another person for a share of the oat crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of oats in the county on the date of seeding for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the oat crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse of child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. Acreage Insured.—(a) The Corporation reserves the right to limit the insured acreage of oats to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the seeding of oats.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. Irrigated Acreage.—(a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of seeding.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of seeding, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. Annual Premium.—(a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however*, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. Claim for and Payment of Indemnity.—(a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured oat acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However*, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the oats are seeded for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. Subrogation.—The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that

payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. Termination of the Contract.—(a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. Coverage Level and Price Election.—(a) If the insured has not elected on the application a coverage level and price election at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and price election for any crop year on or before the closing date for submitting applications for that crop year.

9. Assignment of Indemnity.—Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. Contract Changes.—The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

This proposal has been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A–40.

Approved by the Board of Directors on July 10, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79–22158 Filed 7–17–79; 8:45 am]

BILLING CODE 3410–08–M

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 523]

[No. 79–380]

Waiver of Penalties for Liquidity Deficiencies Caused by Withdrawals

July 12, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed amendment.

SUMMARY: The Bank Board proposes to amend its rule for calculation of liquidity deficiency penalties to moderate the adverse impact of net savings withdrawals on member insitutions. The current rule waives liquidity penalities related to net withdrawals that occur only during a relatively limited number of days during a calendar quarter. The proposed rule would waive the liquidity penalties related to all net withdrawals occurring during a given month.

EFFECTIVE DATE: Comments must be received by September 17, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments available for public inspection at this address.

FOR FURTHER INFORMATION, PLEASE CONTACT: Dwight L. Arnall, Regional Supervisor, Department of Supervision, Office of District Banks (202–377–6522); or Nancy L. Feldman, Assistant General Counsel, Office of the General Counsel (202–377–6440).

SUPPLEMENTARY INFORMATION: Section 523.12 of the Regulations for the Federal Home Loan Bank System (12 CFR 523.12) currently provides for a reduction of any liquidity deficiency during the first month of a current distribution period by the amount of net savings withdrawals during the last three business days of the immediately preceding month and the first ten calendar days of the current month. In the second month of the distribution period, provision is made for a reduction of any deficiency by one-half of such net withdrawals.

The Bank Board believes that these regulatory provisions may not provide adequate relief since they apply only to net withdrawals occurring during the reinvestment period. In the past, a very large portion of withdrawals occurred during the last three days preceeding the beginning of a distribution period and the first ten calendar days of that period. However, with the development of new forms of certificates of deposit, net withdrawals, if any, are more likely to be spread out over time rather than be concentrated near the beginning of a distribution period.

As a consequence, the proposed regulation would be amended to provide relief in the case of all net withdrawals occurring during a given month, not only net withdrawals occurring near the beginning of a distribution period.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend § 523.12 of its Regulations for the Federal Home Loan Bank System (12 CFR 523.12) by revising paragraph (a) (2) thereof to read as follows:

PART 523—MEMBERS OF BANKS

Liquidity

§ 523.12 Deficiencies and penalties.

(a) *Calculation of deficiency.* * * *

(2) A member, other than an insurance company, may reduce any deficiency under (a) paragraph (1) of this section as follows:

(i) For any month, beginning with the month (preceding the regulation's effective date), by the amount of its aggregate net withdrawals (excess of withdrawals over cash savings received) from withdrawable accounts occurring during such month; and

(ii) For the following month, by one-half of such amount of aggregate net withdrawals not recovered; but

(iii) No such reduction shall reduce the member's liquidity requirement below 4 percent of its liquidity base at the end of the immediately preceding distribution period.

* * * * *

(Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 4 1437; sec. 5A, 83 Stat. 401; 12 U.S.C. 1425a; Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79–22164 Filed 7–17–79; 8:45 am]

BILLING CODE 6720–01–M

CIVIL AERONAUTICS BOARD

[14 CFR Part 207]

[EDR-383; Docket No. 36113; Dated: July 12, 1979]

Proposed Elimination of Off-Route Charter Restrictions

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB proposes to eliminate volume limits on all-cargo carrier passenger charters, and on all off-route charters by combination carriers. The CAB also proposes to lift the frequency limitation on international charters. This action is taken at the CAB's own initiative because it finds that the reasons for the off-route charter limits have lost their validity and removing them would place all certificated air carriers on the same footing.

DATES: Comments by: September 17, 1979.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 36113, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies.

Copies may be examined in Room 711, Civil aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURHTER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428; 202-673-5442

SUPPLEMENTARY INFORMATION: In two previous rules, ER-1030, 42 FR 61251, December 2, 1977, and ER-1075, 43 FR 42736, September 21, 1978, the Board liberalized the off-route charter restrictions on carriers with certificates issued under section 401(d)(1) of the Act. Although the off-route charter limitations had been important restraints on scheduled carriers in the past, their effect has been substantially relaxed by these amendments. The Board is proposing to eliminate the remaining off-route charter restrictions.

Free entry, and freedom to respond to, explore, and stimulate market demand, are basic elements in a competitive system of maximum efficiency. The reasons for the off-route charter limits, to restrain the activities of the scheduled carriers outside their appointed routes, and thereby protect both the charter-spcialist carriers and the route systems of other scheduled carriers, appear to have lost their validity. Carriers must still apply to the Board under the Act for new routes to be served under section 401(d)(1), but routes are now routinely granted to qualified applicants. In fact scheduled carriers are free, under the present off-route charter rules, to mount extensive charter programs outside their route systems.

Fears that removing these restrictions will destroy the economic viability of charters are not borne out by experience under the past liberalizations. The entry of scheduled carriers into the charter field has not destroyed the viability of the charter mode. Between 1977 and 1978 when the Board adopted its previous liberalizations, the number of charter passengers on U.S. scheduled carriers dropped 17.3 percent and carrier revenue for charter service was down 15.1 percent. During the same period, however, the number of passengers on U.S. charter carriers rose by 3.2 percent and carrier revenue was up 2.3 percent. We expect that charter specialists can continue to function in a compeltely deregulated environment.

A further reason for eliminating the off-route charter restrictions is that the distinction between charter air carriers and route carriers is rapidly disappearing, as the Board grants route authority to what used to be charter specialists (the old supplementals). The former inequality between the charter carriers and the scheduled carriers, which was one of the most convincing reasons for the off-route charter restrictions, has now been reversed. Previously the route carriers had broader authority than the charter carriers, in that they could offer both charters and scheduled service. Now the charter carrers' authorty is broader, in the sense that they are freely being granted certificates that make them both charter and route carriers, with their charter offerings unlimited by any off-route charter restictons. Eliminating the off-route charter rules would place all certificated air carriers on the same footing: Free to offer charters in any markets as far as U.S. rules are concerned, and free to apply to the Board for routes on which to offer scheduled or other special services.

Specifically, the Board proposes to remove the volume limits on passenger charters by all-cargo carriers with section 401(d)(1) certificates (i.e. Airlift, Seaboard, Flying Tiger), the volume limits on all off-route charters by combinaton carriers, and the remaining frequency limitations on international charters (which currently apply to passenger charters by all-cargo and combination carriers, and cargo charters by combination carriers).

It was suggested in ER-1075 that allowing all-cargo carriers to perform unlimited passenger charters could provide the public with a low-priced charter option. The rationale for imposing volume limits on the cargo carriers, to force them to concentrate their efforts on their cargo service, is no longer valid in a deregulated system.

Granting the combination carriers the unrestricted right to provide cargo service would give them the same freedom in the cargo charter area that the Board has given to the all-cargo carriers. In addition, allowing free entry into the cargo market would further the policy of the Deregualtion Act (P.L. 95-504) of encouraging a transportation system that relies on competitive market forces to determine the extent, quality, and price of cargo air service. Indeed, by removing all the remaining volume restrictions on off-route cargo and passenger charters, the Board would be serving the public interest by permitting the provision of a variety of charter services as well as furthering the statutory policy.

Eliminating the international frequency restrictions may have little effect where foreign countries will not accept an increase in charter flights. In fact the increase probably will not be great in any area because few, if any, carriers are providing charter service up to the present limit. Furthermore, there is already unlimited access, as far as U.S. rules are concerned, to foreign countries by charter flights of the charter carriers and by the on-route charters of scheduled carriers. In any event, the conditions and restrictions on international charter flights should be worked out in the context of our agreements with foreign governments, and are not a reason for maintaining our restrictive rules.

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 207, *Charter Trips and Special Services*, as follows:

§ 207.1 [Amended]

1. In § 207.1 *Definitions*, the definition of "Off-route" and the definition of "On-route" would be revoked.

2. Section 207.3 would be amended to read:

§ 207.3 Scope of authorization.

Charter trips and other special services may be performed by air carriers, subject to the limitations and regulations set forth in this part. The limitations and regulations herein specified as applicable to charter trips shall be applicable to all charter trips regardless of whether the authority to conduct such trips derives from section 401(e)(6) of the Act or the carrier's certificate of public convenience and necessity or from a special or general exemption issued by the Board.

§§ 207.5, 207.6 and 207.7a [Revoked and Reserved]

3. Section 207.5, 207.6, and 207.7a would be revoked and reserved.

4. Section 207.20 would be amended to read:

§ 207.20 Applicability of subpart.

This subpart sets forth the special rules applicable to pro rata charters.

(Secs. 204, 401 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, [49 U.S.C. 1324, 1371])

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-22203 Filed 7-17-79; 8:45 am]

BILLING CODE 6320-01-M

[14 CFR Parts 221, 222, 291, and 385]

[Docket 36119; EDR-384; ODR-19]

Proposed Amendments To Terminate the Filing of Pick-Up and Delivery Tariffs

Dated: July 12, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice invites public comment on proposed rules that would eliminate the remaining requirements for filing pick-up and delivery (PU&D) tariffs with the C.A.B. The pick-up and delivery tariffs presently on file contain provisions which are so limited in their application that retention of the present filing requirements is not necessary.

DATES: Comments due by September 17, 1979.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT: William R. New, Tariffs Division, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5401.

SUPPLEMENTARY INFORMATION: In ER-1080, 43 FR 53628, November 16, 1978, the Board exempted certificated direct air carriers from the requirement to file tariffs for domestic air cargo transportation,[1] except for transportation between points within the states of Alaska or Hawaii. Subsequently, in ER-1094, 44 FR 6634, January 31, 1979, and Order 79-3-51, March 8, 1979, the Board exempted U.S. and foreign air freight forwarders, respectively, from the requirement to file tariffs for both domestic and international transportation. Under these exemptions, air freight forwarders no longer file any tariffs, and direct carriers continue to file cargo tariffs only for foreign air transportation and the extremely limited intrastate and overseas air transportation not included in the exemptions in ER-1080 and ER-1094. Thus, the applicability of the pick-up and delivery tariffs still filed with the Board has diminished drastically—so much so that we believe their diminished applicability, coupled with the movement toward a less regulated and more competitive air cargo system, makes it desirable to totally exempt carriers from the requirement to file them.

Before the exemptions were granted, the pick-up and delivery tariffs on file with the Board governed all pick-up and delivery services performed at U.S. points. Now, however, the pick-up and delivery rates shown in the tariffs are valid only when the pick-up or delivery service is performed in connection with air transportation which is subject to a tariff required to be filed with the board.[2] Therefore, we are faced with the anomalous situation of having pick-up and delivery services at U.S. points subject to tariff filing requirements for some shipments, when the same services at the same points have been exempted from tariff filing requirements for most shipments.

Further lessening the justification to continue any pick-up and delivery tariff filing requirements is the fact that we have never required tariffs for pick-up and delivery services performed at foreign points, even for shipments from or to points in this country.[3] Thus, at best, on an international shipment receiving pick-up and delivery service, the tariff would show rates only for the service (pick-up or delivery) performed in the U.S.; the tariff is not applicable in determining rates for the service performed at the foreign point.

At the time we exempted carriers from the requirement to file air cargo tariffs, there was another purpose served by filing pick-up and delivery tariffs with the board: The Interstate Commerce Commission (ICC) exemption, which exempted PU&D services in connection with air transportation from ICC regulation, was conditioned upon the service being described in a tariff filed with and accepted by the C.A.B. However, the ICC has now adopted new rules, effective June 26, 1979,[4] that eliminate the reliance on C.A.B. tariffs to exempt pick-up and delivery services, so that reason for maintaining pick-up and delivery tariffs no longer exists.

Lastly, and more importantly, we believe the on-going transition to a significantly less regulated air cargo transportation system makes it desirable and in the public interest to terminate the remaining tariff filing requirements for pick-up and delivery services. Most pick-up and delivery services are performed for air carriers by local cartage agents on cost pass-through types of arrangements. The economics of the services are more closely related to surface carrier costs than air carrier costs, and we believe they are best determined by market forces. Elimination of tariff filing requirements should provide the carriers with more flexibility to offer services attuned to shipper demands, and should further the objectives we sought when we eliminated all tariffs of air freight forwarders and most domestic cargo tariffs of direct air carriers. In any event we see few, if any, public interest benefits from retaining tariff filing requirements for PU&D services at a given city for only some shipments, when the same services at the same city

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[1] "Domestic air cargo transportation" is defined as transportation between points within the 50 states of the U.S., the District of Columbia, Puerto Rico, and the Virgin Islands.

[2] In general, freight tariffs are required for foreign service, limited overseas service, intra-Alaska and intra-Hawaii service. However, exceptions exist in certain circumstances. For example, a shipment from Boise to Montreal might move at a tariff rate only for the portion of transportation between Chicago and Montreal. Since the Boise-Chicago transportation is not subject to a tariff, the pick-up service in Boise is, likewise, not subject to tariff rates.

[3] Some Canadian points are included in pick-up and delivery tariffs filed with the Board; these points have been accepted because the tariffs containing them are filed with both the United States and Canadian governments.

[4] 49 CFR 1047.40.

are no longer regulated for most shipments.

Under this proposal, the only pick-up and delivery information required in the air transportation tariffs would be a statement indicating the extent to which the air transportation rates include pick-up or delivery services. If pick-up or delivery services are limited or are not included in the air transportation rates, the tariff may explain the limitation or indicate that such services are available at certain points or areas at additional cost but the cost itself may not be included.

Proposed Rules

The Board therefore proposes to amend 14 CFR Parts 221, 222, 291 and 385 as follows:

PART 221—CONSTRUCTION, PUBLICATION, FILING, AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

1. Section 221.103 would be deleted from the table of contents of Part 221.

2. Section 221.38(a)(3) would be amended to read as follows:

§ 221.38 Rules and regulations.

a. *Contents.* Except as otherwise provided in this part, the rules and regulations of each tariff shall contain:

* * * * *

(3) All the rates or charges for, and the provisions governing, terminal services, and all other services which the carrier undertakes or holds out to perform on, for, or in connection with air transportation, except that, in the case of pick-up and delivery services, the tariff need only specify the extent to which the air transportation rates named in the tariff include such services; and, where pick-up and delivery services are provided only at an additional charge, the additional charges therefore shall not be included in the tariffs.

* * * * *

3. Section 221.53 would be amended to read as follows:

§ 221.53 Airport-to-airport application accessorial services.

(a) Tariff publications containing rates or fares for air transportation shall specify whether or not they include additional services in one or more of the following ways:

(1) The tariff shall indicate that rates or fares include pick-up, delivery, or other services, explicitly defining the services to be furnished, and defining areas or points within or between which the services will be performed; or

(2) The tariffs shall indicate that the rates or fares apply from airport-to-airport and that the carrier does not perform additional services; or

(3) The tariff shall indicate that the rates or fares apply only from airport-to-airport but that additional services are furnished subject to additional charges, and, except for pick-up and delivery services, the tariff shall be set forth charges for all other services and other provisions applicable thereto, as required by § 221.38, clearly and explicitly specifying the extent to which such services will be furnished.

(b) The above requirement shall not be construed as precluding the publication of rates or fares for air transportation which include pick-up or delivery service at certain specified points or areas within the pick-up and delivery zone of the airport city of origin or destination but subject to a further provision that pick-up or delivery service will be provided at other specified areas or points within the same pick-up and delivery zone only upon payment of an additional charge.

(c) The airport-to-airport application of rates or fares for air transportation and the statements as to the extent to which such rates or fares include pick-up, delivery or other accessorial services shall be published in the rate or fare tariff and not in a governing tariff. However, the definitions of such services, the definitions of areas or points within or between which such services will be performed, and the rates or charges for such services (when not included in the air transportation rates or fares) may be published in a governing rules tariff conforming to § 221.102, except that additional charges for pick-up and delivery services shall not be included in the tariffs.

§§ 221.100 and 221.103 [Amended]

4. Sections 221.100(c)(2) and 221.103 would be revoked and reserved.

PART 222—AIR CARGO PICK-UP AND DELIVERY ZONES; FILING OF TARIFFS; APPLICATION FOR AUTHORITY TO FILE

Part 222 would be revoked in its entirety and reserved.

PART 291—GENERAL RULES FOR ALL-CARGO CARRIERS

Section 291.31(a)(1) would be revised to read as follows:

§ 291.31 Exemption from the Act for direct air carriers.

(a) Each direct air carrier providing domestic cargo transportation is, with respect to such transportation, exempted from the following section or subsections of the Act:

(1) Section 403, with the exception of air transportation of property wholly within the states of Alaska and Hawaii.

(2) * * *

* * * * * *

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

§ 385.13 [Amended]

Sections 385.13(w) and 385.13(oo) would be revoked and reserved.

(Sections 204, 401, and 403 of the Federal Aviation Act of 1958, 72 Stat. 743, 754, and 758; 49 U.S.C. 1324, 1371, and 1373)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-22234 Filed 7-17-79; 8:45]

BILLING CODE 6320-01-M

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

Financial Early Warning System; Proposed Rule

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing to amend § 1.12 of Part 1 of its General Regulations under the Commodity Exchange Act by redesignating current paragraph (f) as paragraph (g), and by adding a new paragraph (f) thereto.

The effect of the new paragraph will be to require a clearing organization to give telegraphic notice to the Commission within 24 hours after making a determination that, due to the failure of a clearing member registered as a futures commission merchant ("FCM") to meet a margin call or for any other reason, the positions it carriers in any account for such FCM must be liquidated or transferred immediately or that the trading in any of the accounts of such FCM must be confined to transactions for liquidation only. Similarly, FCMs which carry accounts for other FCMs would be required to give such notice to the Commission in the event that the carrying FCM makes a determination as described above with respect to any account carried for such other FCM.

The primary purpose of the proposal is to insure that the Commission receives early warning when such a determination is made so that appropriate protective or remedial action may be taken.

References to paragraph (f) in § 1.12 will be changed to refer to paragraph (g).

DATE: Comments on the proposed rule should be submitted by August 17, 1979.

ADDRESS: Send comments to: Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Daniel A. Driscoll, Assistant Chief Accountant, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW Washington, D.C. 20581. (202) 254–8955.

SUPPLEMENTARY INFORMATION: The Commission, as part of its new minimum financial requirements for FCMs,[1] adopted an improved early warning system in § 1.12 of its General Regulations.[2] Under § 1.12, an FCM (or applicant therefor) must give notice to the Commission, the designated self-regulatory organization ("DSRO"), if any, and the Securities and Exchange Commission ("SEC"), when applicable, when: (i) Its adjusted net capital falls below established minimum standards; (ii) it fails at any time to make or keep current the books and records required by the Commission's regulations; or (iii) it discovers or is notified of any material inadequacy[3] by an independent public accountant, pursuant to § 1.16(e)(2) of the regulations.[4] Section 1.12 also requires the submission of various written reports as a follow-up to the required notices. A self-regulatory organization which learns that one of its member FCMs has failed to file a notice or a written report which is required by § 1.12 must immediately report such failure.

The proposed amendment to § 1.12 would require a clearing organization or carrying FCM to notify the Commission that the carrying FCM or clearing organization has determined that an FCM for which it clears must transfer or liquidate positions in any accounts immediately or trade for liquidation only because that FCM has failed to meet a margin call or for any other reason.[5]

Section 1.12 requires FCMs to give notice of their inability, or failure, to meet the minimum capital requirements; however, there have been a number of instances of FCMs failing to give such notice. The circumstances which would cause a clearing organization or carrying FCM to require an FCM to transfer or liquidate positions or to trade for liquidation only can indicate that the firm may be in severe financial difficulty. The Commission, therefore, believes that the proposed notice would strengthen existing reporting requirements.

The proposal is consistent with the overall purpose of the early warning system, which is "to afford the Commission and the appropriate industry self-regulatory organizations sufficient advance notice of an FCM's problems to make possible such protective or remedial, as opposed to enforcement, action as may be needed to insure the safety of the FCM's customers' funds and the integrity of the marketplace." [6] As is the case with other provisions of the early warning system currently in effect, there will be no independent penalty imposed on an FCM solely because a clearing organization or carrying FCM has decided that any of the positions of such FCM must be liquidated or transferred immediately or that trading for such FCM's account shall be restricted to liquidation only.[7]

Even though the proposal would establish additional notification requirements under the early warning system, the Commission does not believe that these requirements impose significant additional regulatory burdens on the industry. It will not require additional surveillance or decision-making by clearing organizations of FCM's. The decision will have already been made to force an account to be transferred or liquidated immediately or to place an account on liquidation-trading only status. The amendment merely requires that the clearing organization or FCM establish an internal procedure that will insure that such a decision is communicated to the Commission in accordance with § 1.12 within 24 hours. For purposes of proposed new paragraph (f) of § 1.12, the required notice need only be given to the Commission at its principal office in Washington, D.C. The Commission will then notify the appropriate regional office. If the FCM who fails to meet a margin call is a member of a DSRO or is registered as a broker-dealer, the Commission will notify the DSRO or the SEC of such failure.

The Commission does not anticipate that the proposed requirement will alter the actions taken by a clearing organization or an FCM *(e.g.,* prolonging the decision to liquidate or transfer positions or to place an account on a liquidation only basis), because such a change could jeopardize such an entity's own financial stability.

In proposing this amendment the Commission is acting pursuant to the Commodity Exchange Act, as amended, and particularly Sections 4c, 4d, 4f, 4g, 5a, 8a, 15 and 17 thereunder (7 U.S.C. 6c, 6d, 6f, 6g, 7a, 12a, 19 and 21).

In consideration of the foregoing, the Commission hereby proposes to amend Title 17, Chapter I, Part 1 of the Code of Federal Regulations, by revision § 1.12 as follows (► ◄ arrows indicate additions, [ ] brackets indicate deletions):

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants.

(a) Each person registered as a futures commission merchant, or who files an application for registration as a futures commission merchant, who knows or should have known that its adjusted net capital at any time is less than the minimum required by § 1.17 or by the capital rule or any self-regulatory organization to which such person is subject, it any, must:

(1) Give telegraphic notice as set forth in paragraph [(f)] ►(g)◄ * * *

(b) Each person registered as a futures commission merchant, or who files an application for registration as a futures commission merchant, who knows or should have known that its adjusted net capital at any time is less than (1) the greater of 150 percent of the appropriate minimum dollar amount required by § 1.17 or 8⅓ percent of aggregate indebtedness or (2) if the applicant or registrant is operating pursuant to § 1.17(g), the greatest of 150 percent of the appropriate minimum dollar amount required by § 1.17(g), or 6 percent of the funds required to be segregated pursuant to section 4d(2) of the Act and these regulations, or for securities brokers or dealers, 6 percent of aggregate debit items computed in accordance with the formula for determination of reserve requirements (§ 240.15c3–3 of this title); such applicant

[1] 43 FR 39956 (September 8, 1978).

[2] 43 FR 39956, 39969–39970 (September 8, 1978).

[3] Section 1.16(d)(2) of the Commission's regulations (§ 1.16(d)(2), 43 FR 39956, 39971 (September 8, 1978)) sets forth conditions which constitute material inadequacies.

[4] Section 1.16(e)(2), 43 FR 39956, 39971 (September 8, 1978).

[5] This includes accounts maintained by the FCM to facilitate the clearing of its customers' positions as well as those maintained to clear the positions of its proprietary accounts (as defined in 17 CFR 1.3(y)).

[6] 43 FR at 39960.

[7] If, however, a clearing organization or carrying FCM fails to give notice as required under the Commission's regulations, enforcement and protective actions, as appropriate, may be taken with respect to such clearing organization or carrying FCM.

or registrant must file written notice to that effect as set forth in paragraph [(f)] ►(g)◄ * * *

* * * * *

(e) Whenever any self-regulatory organization learns that a member registrant has failed to file a notice or written report as required by this § 1.12, such self-regulatory organization must immediately report such failure as provided in paragraph [(f)] ►(g)◄ of this section.

►(f)(1) Whenever a clearing organization determines that any position it carries for one of its clearing members which is a futures commission merchant must be liquidated or transferred immediately or that the trading of any account of such futures commission merchant shall be only for the purposes of liquidation, because that clearing member has failed to meet a margin call or for any other reason, the clearing organization must give telegraphic notice of such a determination to the principal office of the Commission at Washington, D.C. within 24 hours.

(2) Whenever a futures commission merchant determines that any position it carries for another futures commission merchant must be liquidated or transferred immediately or that the trading of any account of such futures commission merchant shall be only for purposes of liquidation, because the other futures commission merchant has failed to meet a margin call or for any other reason, the carrying futures commission merchant must give telegraphic notice of such a determination to the principal office of the Commission at Washington, D.C. within 24 hours.◄

[(f)] ►(g)◄ Every notice and written report required to be given or filed by this section ►(except for notices required by paragraph (f) of this section)◄ must be filed with the regional office of the Commission for the region in which the applicant or registrant has its principal place of business, with the designated self-regulatory organization, if any, and with the Securities and Exchange Commission, if such applicant or registrant is a securities broker or dealer. In addition, every notice required to be given by this section must also be filed with the principal office of the Commission in Washington, D.C. Each statement of financial condition, each statement of the computation of the minimum capital requirements pursuant to § 1.17, and each schedule of segregation requirements and funds on deposit in segregation required by this section must be filed in accordance with the provisions of § 1.10(d) of these regulations, unless otherwise indicated.

Issued in Washington, D.C. on July 11, 1979, by the Commission.

Jane K. Stuckey,

Secretary of the Commission, Commodity Futures Trading Commission.

[FR Doc. 79-22154 Filed 7-17-79; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-16018; File No. S7-790]

Proposed Amendment to Rule 15b10-12

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendment to rule.

SUMMARY: The Commission proposes to amend the exemption for certain municipal securities brokers and municipal securities dealers from the requirements of the Securities and Exchange Commission Only (SECO) program. The current exemption from regulation under the SECO program is based upon the type of broker or dealer effecting a transaction in a security. In contrast, the proposed amendment would exempt municipal securities transactions of all brokers and dealers from the requirements of the Commission SECO rules.

The proposed amendment would eliminate the current dual regulation of municipal securities transactions effected by SECO brokers and dealers which conduct business in both municipal and corporate securities. It also would make the SECO fair practice rules applicable to transactions in exempted securities by all registered SECO brokers and dealers, including those brokers and dealers who limit their business to transactions in municipal and exempted securities.

DATES: Comments should be received by August 31, 1979.

ADDRESSES: Interested persons should submit six copies of their views and comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All submissions will be made available for public inspection at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. and should refer to Securities and Exchange Commission File No. S7-790.

FOR FURTHER INFORMATION CONTACT: Katharine S. Emmons, Esq., Office of Self-Regulatory Oversight, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 755-2946.

SUPPLEMENTARY INFORMATION: In 1975, for the first time, municipal securities professionals who limited their business to transactions in municipal and exempted securities ("sole municipal brokers and dealers") were required to register with the Commission as a result of their transactions in municipal securities. Registered sole municipal brokers and dealers who did not become members of the National Association of Securities Dealers, Inc. (the "NASD") became subject to the Commission's SECO (Securities and Exchange Commission Only) Program.[1] Commission Rules 15b10-1 through 15b10-11 [17 CFR § 240.15b10-1 through 15b10-11] regulate SECO brokers and dealers with respect to "fair practice" standards, including general business conduct, suitability of recommendations, discretionary accounts, supervision of employees, recordkeeping, and fidelity bonds. The Commission, however, anticipated that the Municipal Securities Rulemaking Board (the "MSRB") would establish rules of fair practice as directed by Section 15B(b)(2)(C) of the Securities Exchange Act of 1934 (the "Act") [15 U.S.C. § 78*o*-4(b)(2)(C)]. Accordingly, the Commission adopted Rule 15b10-12 [17 CFR § 240.15b10-12] to relieve sole municipal brokers and dealers who were not NASD members from the necessity of temporarily establishing compliance procedures for the Commission's SECO rules, which regulated areas to be covered by the expected MSRB rules.[2] SECO brokers and dealers effecting transactions in corporate as well as municipal and exempted securities ("mixed product brokers and dealers"), who presumably had established such compliance procedures, continued to be subject to the requirements of Rules 15b10-1 through 15b10-11 with respect to their

[1] Section 15(b)(9) of the Securities Exchange Act of 1934 [15 U.S.C. 78*o*(b)(9)] is the statutory authority for the SECO program.

[2] *See* Securities Exchange Act Release No. 11876 (Nov. 26, 1975).

transactions in municipal securities. Consequently, when the Commission approved the MSRB fair practice rules on October 19, 1978,[3] SECO mixed product brokers and dealers became subject to dual regulation by both the Commission and the MSRB with respect to their municipal securities transactions.[4]

The Commission's proposed amendment to Rule 15b10–12 would have two effects. First, the proposed amendment would eliminate the current dual regulation of municipal securities transactions of SECO mixed product brokers and dealers by both the Commission and the MSRB. The proposed amendment would suspend regulation by the Commission of municipal securities transactions effected by SECO mixed product brokers and dealers where a parallel MSRB rule exists; specifically, the proposed amendment would exempt municipal securities transactions from the requirements of Rules 15b10–2, 15b10–3, 15b10–4, 15b10–5, 15b10–6, and 15b10–11. The proposed amendment, accordingly, would eliminate unnecessary dual regulation of municipal securities transactions by both the Commission and the MSRB.

In addition, the proposed amendment would subject SECO sole municipal borkers and dealers to the requirements of the SECO program with respect to their non-municipal, exempted, securities transactions. Currently, Rule 15b10–12 exempts SECO sole municipal brokers and dealers from the fair practice requirements of the SECO program. The proposed amendment would change the current class exemption for those sole municipal brokers and dealers to a transactional exemption limited to municipal securities transactions. As a result, the amendment would bring under the Commission's regulation all other transactions in securities effected by those SECO sole municipal brokers and dealers, whether or not the transactions would in themselves cause the broker or dealer effecting them to be required to register with the Commission. The practical effect of the amendment would be to require those persons to comply with the SECO rules with respect to their transactions in exempted securities.

Transactions in exempted securities effected by SECO mixed product brokers and dealers are already subject to the requirements of the SECO rules; transactions in exempted securities by sole municipal securities brokers and dealers would be subject to Commission regulation for the first time as a result of the proposed amendment. Although this SECO regulation would be broader than that of the NASD, which does not regulate exempted securities transactions effected by its members,[5] uniform regulations within the SECO program would result from the proposed amendment.[6]

Rule 15b10–12 is proposed to be amended by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended [15 U.S.C. §§ 78a *et seq.*], and, particularly, Sections 2, 15, and 23 [15 U.S.C. §§ 78b, 78*o*, and 78w].

Accordingly, the Commission proposes to revise § 240.15b10–12 to read as follows: § 240.15b10–12 Exemption for municipal securities transactions of non-member brokers and dealers.

The following rules of the Commission adopted pursuant to Section 15(b) of the Act shall not apply to transactions in municipal securities effected by brokers and dealers:

Rule 15b10–2
Rule 15b10–3
Rule 15b10–4
Rule 15b10–5
Rule 15b10–6
Rule 15b10–11

All interested persons are invited to submit in writing six copies of their views on the proposed amendment to Rule 15b10–12 to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549, not later than August 31, 1979. All communications should refer to File No. S7–790 and will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–22116 Filed 7–17–79; 8:45 am]

BILLING CODE 8010–01–M

[3] *See* Securities Exchange Act Release No. 15247 and Release No. 15248 (Oct. 19, 1978).

[4] For example, both the SECO rules and the MSRB rules concern general business conduct, suitability of investment recommendations, supervision of persons associated with brokers and dealers, and discretionary accounts.

[5] Section 15A(f) of the Act [15 U.S.C. § 78*o*–3(f)], the statutory authority for the NASD, provides: "Nothing in this section shall be construed to apply with respect to any transaction by a broker or dealer in any exempted security.

[6] Section 15(b)(9) of the Act [15 U.S.C. § 78*o*(b)(9)], the statutory authority for the SECO program, grants the Commission rulemaking power with respect to *any* security, rather than just to non-exempted securities.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

[27 CFR Parts 5, 170, 201, and 240]

[Notice No. 326]

Regulations To Implement the Proposed Distilled Spirits Tax Revision Act of 1979

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing this advance notice to obtain comments from consumers and industry members regarding the implementation of the Distilled Spirits Tax Revision Act of 1979 which has recently been introduced into Congress. If this proposed bill is passed, the new law will become effective on January 1, 1980. As a result, the Bureau is currently preparing regulations, and would like to obtain public participation in identifying the best course of action which will pose the least administrative burden to industry members while providing protection to Federal revenues and to consumers. The information thus obtained will be used in writing regulations to implement the Distilled Spirits Tax Revison Act of 1979, if it is passed by Congress.

DATES: Comments must be received on or before August 17, 1979.

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: Edward J. Sheehan, Research and Regulations Branch, 202–566–7626.

SUPPLEMENTARY INFORMATION: By means of this advance notice, the Bureau plans to obtain early participation, needed advice, and data from consumers and industry on the implementation of the proposed Distilled Spirits Tax Revision Act of 1979, Title VIII of the Trade Agreements Act of 1979 (H.R. 4537, S. 1376). Specific information is requested concerning bond coverage, qualification requirements, records, transitional rules, and use of standard wine premises. The information thus obtained will help the Bureau to write regulations which should improve efficiency of industry operations and minimize administrative costs to the Government.

Upon receipt and evaluation of these comments and passage of the Distilled Spirits Tax Revision Act of 1979, a Treasury decision will be issued providing interim regulations which will remain in effect until the promulgation of final regulations. Final regulations will be issued only after careful consideration of the comments received on the interim regulations.

Following is some brief background information, a discussion of existing law, a discussion of proposed law, a statement of administrative action, and a list of specific areas in which the Bureau is seeking comment.

Background

As a result of the multilateral trade negotiations, the United States has made a concession concerning the elimination of the wine gallon method for imposing the distilled spirits tax. Accordingly, the Administration has submitted to Congress a legislative package for eliminating the wine gallon method of taxing distilled spirits, which is cited as the Distilled Spirits Tax Revision Act of 1979.

Discussion of Existing Law

Under the Internal Revenue Code of 1954, the Secretary of the Treasury has strict control of liquors for beverage purposes and alcohol for industrial purposes, from the beginning of the production process to the point of removal from bond. This control has been mantained through a rigid system of separate premises, permits, inspections, and supervision. However, in recent years the Bureau has recognized the need for modernizing this system of control.

The tax on distilled spirits is recognized as a production tax imposed on the distilled spirits the moment they come into existence. This tax is not determined or paid until distilled spirits are removed from the bonded premises on which they are held. Bonded premises are the premises of a distilled spirits plant or part thereof on which operations relating to the production, storage, denaturation or bottling-in-bond of distilled spirits prior to the payment or determination of tax are authorized to be conducted.

Existing law imposes a tax on all distilled spirits in-bond, produced in, or imported into the United States at the rate of $10.50 a proof gallon, or wine gallon when below 100° proof. A proof gallon is defined as a U.S. gallon of 100° proof spirits or the alcoholic equivalent thereof. Proof spirits means that liquid which contains one-half its volume of ethyl alcohol at 60° F. A wine gallon means a U.S. gallon of liquid measure equivalent to the volume of 231 cubic inches.

The tax on spirits which are at or above 100° proof when removed from bond is determined on a proof gallon basis, that is, on the actual degree of proof of the alcohol in the product. Conversely, if the spirits are below 100° proof when removed from bond, the tax is determined on a wine gallon basis, that is, strictly on the number of U.S. gallons, without regard to proof.

As a usual practice, domestic producers withdraw spirits on tax determination prior to their bottling (*i.e.*, in bulk), while they are above 100° proof. They subsequently reduce them after tax determination to bottling proof (usually 80° proof) by the addition of water and other ingredients. As a result, domestic spirits are usually tax determined so that the effective rate of tax is for example $8.40 a wine gallon for 80° proof spirits. Some foreign spirits are imported in bulk at or above 100° proof, so that they too are tax determined in the same manner as domestic spirits.

However, most foreign spirits which are bottled in the country of origin are imported at 80° proof and are accordingly taxed at $10.50 on each wine gallon when removed from bond. This results in a higher effective tax on these bottled imported spirits, than on other spirits taxed on a proof gallon basis.

Under existing law, operations performed at a distilled spirits plant prior to payment or determination of the distilled spirits tax must be conducted on bonded premises, while operations relating to the rectification or bottling of distilled spirits on which the tax has been paid or determined must be conducted on bottling premises. Existing law limits the permissible activities that may be performed within a particular facility in-bond to the extent of requiring separate facilities for production, denaturation, bottling-in-bond, export storage, and warehousing. This segregation of facilities within premises results in a complicated system of plant bonding, qualification and registration.

Further, as a result of plant segregation, several inconsistencies result from the type of permissible operations authorized. For example, wines may be rectified and/or bottled, on a distilled spirits plant, while distilled spirits plant, while distilled spirits which have been denatured may not be used in the manufacture of an article on distilled spirits plant premises. Consequently, for a proprietor to manufacture an article with distilled spirits, at a location where the spirits were produced, it is necessary to qualify additional premises as an industrial alcohol user.

Aside from facility segregation, present law also requires the physical presence of an ATF officer before certain operations on bonded premises may be performed. Currently, distilled spirits may only be produced in a closed distilling system. The spirits in the system are required to be kept under Government lock or seal until the production gauge is made and the spirits have been entered for deposit, denatured, tax determined, or removed for a legitimate tax-exempt or tax-free purpose. Rooms and buildings in which distilled spirits are stored may not be unlocked or remain open unless an ATF officer is on the plant premises. These bonded spirits are under the joint custody of the warehouseman and the ATF officer assigned to the distilled spirits plant.

In addition, the gauge for spirits produced, transferred, tax determined, or removed tax-free must be either made or supervised by an ATF officer. Bottling-in-bond and denaturation are also required to be supervised by an ATF officer.

With the physical separation required under existing law between bonded premises and bottling premises (the premises where tax determined or tax paid spirits are rectified and/or bottled), tax determination for domestic spirits occurs in almost all cases because they are removed from bond for bottling and/or rectification at the same plant. Although the tax is determined when spirits are removed from bond, payment may be deferred.

As a result of this deferral procedure, existing law provides for crediting the proprietor with the amount of tax liability outstanding on spirits lost during rectifying and bottling operations. However, if losses exceed the specific statutory allowances, the tax is required to be paid on the excessively lost spirits.

Under existing regulations, nonindustrial distilled spirits products, which have been bottled as finished case goods, may be stored by a proprietor on the control premises of a distilled spirits plant. Control premises are generally the bottling premises of a distilled spirits plant. A rather complex procedure to account for the distilled spirits tax liability on such controlled stock ensures payment of the tax at the appropriate time. Simply stated, the deferral effect of this procedure is to require the tax to be paid, upon shipment from the control premises, or,

if the spirits are kept in controlled stock inventory, the tax can be deferred for no more than six months.

In addition to the $10.50 a proof gallon tax imposed on distilled spirits, existing law also imposes a $0.30 a proof gallon rectification tax on all distilled spirits and wines which are rectified. This tax, which is subject to numerous statutory exceptions, is in essence a tax imposed on all distilled spirits and wines which have been changed from their original state whether through blending, treatment or any other activity. However, this tax is imposed only on spirits rectified in the U.S. and does not apply to imported products which have not been further rectified in the United States.

Domestically rectified distilled spirits products (cocktails, flavored brandies, blended whiskies, etc.) are made not only with distilled spirits, but also may contain wines, "blenders," or flavors which contain alcohol. Because alcohol derived from wine and nonbeverage alcoholic flavors are not subject to the distilled spirits tax, domestic producers can achieve an effective tax below $10.50 by using these additives in their products. Often the $0.30 rectification tax only partly offsets this tax advantage. In other cases, it results in a higher tax on the rectified domestic product than on unrectified domestic or rectified bulk imported products.

Therefore, these tax provisions often result in disparities between the effective tax on similar distilled spirits products of different domestic producers, and between domestic and imported products. For example, cordials are subject to the rectification tax if produced domestically, but not if imported (and not further rectified in the United States). Domestic cordials may also derive up to 50 percent of their volume from wines. Table wine, not over 14 percent alcohol, when used in a domestic cordial is taxed at a proof gallon rate of about $0.60. Imported cordials are taxed at the distilled spirits rate (on the basis of either wine gallons or proof gallons).

Due to this tax differential, some domestic cordials and liqueurs are formulated using large amounts of table wine, so these products are taxed at effective rates of $9.00 or less per proof gallon. In contrast, similar products of other domestic producers deriving all of their alcohol from distilled spirits are taxed at $10.80 a proof gallon ($10.50 distilled spirits and $0.30 rectification tax). Similar products imported in bulk above 100° proof and bottled domestically are taxed at $10.50 a proof gallon. If the same imported products are bottled in their country of origin at 42° proof, they are taxed at an effective rate of $25.00 a proof gallon.

Discussion of Proposed Law

The proposed bill (H.R. 4537, S. 1376) will amend the Internal Revenue Code of 1954 to revise the present approach for taxing and controlling distilled spirits to an all-in-bond system of control under which distilled spirits taxes would be determined on the amount of alcohol contained in consumer packages at the time of removal from the bonded premises of a distilled spirits plant.

The proposed bill would completely revise the existing statutory scheme for taxing and controlling distilled spirits by enlarging the bonded premises of a distilled spirits plant to encompass all operations of a distilled spirits plant. The distilled spirits tax would then be determined solely on the basis of the proof gallons of alcohol contained in the product at the time of removal from bond. Consequently, the distilled spirits tax would be imposed on the alcoholic content of all wines and nonbeverage alcoholic flavoring ingredients used to manufacture distilled spirits products. Distilled spirits taxes will be determined through a simple method of determining the proof gallon equivalent of case goods removed from the bonded premises of a distilled spirits plant. This method will replace the complex system of accounting for and payment of distilled spirits tax through the handling and movement of controlled stock.

In addition, all provisions relating to rectification tax, exceptions from rectification tax, and rectifier's occupational tax would be eliminated.

By uniformly taxing all alcohol in a product, the proposed bill would also eliminate the differential that necessarily results between the taxes determined on imported cased goods and the taxes determined on domestically bottled products. By determining the distilled spirits tax uniformly on all products regardless of proof, all products would have tax parity, and the present competitive advantage enjoyed by some products would be eliminated.

In addition to the benefits that result from the uniform taxing method in this bill, the qualification and use of a distilled spirits plant premises will be substantially simplified. All operations respecting the production, warehousing, and processing, including bottling of distilled spirits, would be conducted in-bond on the premises of a distilled spirits plant, without the need to designate separate facilities within the plant for distilled spirits operations. Since the tax under the all-in-bond system would be on consumer packaged products, there is no need for the physical delineation of separate premises for operations authorized on the bonded premises of a distilled spirits plant. The separate activities will be accounted for by recordkeeping accounts such as production, storage, processing and finished goods. Tanks, vats, rooms, or buildings could be used for multiple purposes with the accountable status of the spirits being maintained by appropriate records.

However, operations on the bonded premises of a distilled spirits plant could be restricted to those respecting distilled spirits, denatured distilled spirits or articles. Wines, while no longer permitted to be rectified and/or bottled on a distilled spirits plant premises, may be received on such premises only for use in the manufacture of a distilled spirits product. All other operations involving the rectification and/or bottling of wines formerly done on the premises of a distilled spirits plant will be required to be conducted on the premises of a bonded wine cellar or taxpaid wine bottling house.

The proposed bill will eliminate the present statutory obligation to assign ATF officers to distilled spirits plants under the present "joint custody" system of supervision and control. Distilled spirits plant proprietors would have singular custody of spirits in-bond, and ATF officers would be assigned to plants at the discretion of the Secretary. This will result in better operational flexibility for the proprietor and monetary savings for the Government.

The broad operational flexibility afforded within an all-in-bond distilled spirits plant system will also eliminate the need for the claims that are now filed for the tax that has been determined on spirits that are lost in processing and bottling after removal from bond. It would also eliminate the need for claims for export drawback.

The proposed bill will also eliminate the statutory provisions relating to distilled spirits bottled-in-bond, the 20 year statutory force out for distilled spirits in storage and the lien provision applicable to the bonded premises of a distilled spirits plant producing distilled spirits.

In summary, the purpose of the proposed bill is to equalize distilled spirits taxes for domestic and imported products, and to simplify existing controls of the operations of distilled spirits plants. These two purposes are effectuated by the implementation of an all-in-bond system whereby tax is

determined after bottling when the products are removed from the bonded premises of a distilled spirits plant. Under this system distilled spirits will be bottled and ready for sale before any tax has been paid or determined.

Statement of Administrative Action

With repeal of the present statutory obligation to assign ATF officers to distilled spirits plants under the present "joint custody" system of supervision and control, the Bureau anticipates the gradual removal of ATF officers from such plants to be accomplished on a plant-by-plant basis. This will provide the Government with an opportunity to evaluate the degree of control needed at each plant, and will provide proprietors the opportunity to adjust to their new responsibilities. However, the removal of ATF officers assigned at distilled spirits plants will necessitate and expanded inspection-audit program to ensure the protection of the revenue.

In addition, repeal of the bottling in-bond provisions of 26 U.S.C. 5233 will eliminate the distinct status of "bottled-in-bond" products for tax purposes since all spirits will now literally be bottled-in-bond. However, since "bottled-in-bond" whiskey has achieved recognition as a specific type of whiskey, the Bureau will continue "bottled-in-bond" as a distinctive product designation under the labeling regulations of the Federal Alcohol Administration Act. The Treasury Department will amend 27 CFR Part 5 to directly incorporate the standards now contained in section 5253(b) (*e.g.*, 100° proof, aged fours years in wood, etc.) so that "bottled-in-bond" as a labeling term will continue to have the same meaning as before the all-in-bond legislation.

Finally, the repeal of 26 U.S.C. 5205(a)(1) will eliminate the requirement for a distinctive strip stamp for "bottled-in-bond" spirits. The existing strip stamps for these spirits is green, while a red strip stamp is used on othe domestic products. Although for tax purposes it will no longer be necessary to have a distinctive strip stamp for these goods, the green stamp has gained considerable consumer recognition as a distinctive mark of the "bottled-in-bond" whiskey. In view of this fact, and consistent with the retention of "bottled-in-bond" as a labeling designation, the Bureau will continue the use of a green strip stamp as a distinctive feature for these products.

Questions

To assist ATF in identifying and implementing the best course of action, written comments and supporting data are specifically requested, but not limited to, the following topics:

1. *Qualification.* How can the preparation and submission of qualifying documents be simplified?

2. *Records and Reports.* (a) How can ATF forms be modified? Can any be eliminated?

(b) Can any ATF forms be replaced with commercial records which would maintain the same information as before?

(c) Should any of the monthly reports be changed?

3. *Bonds.* What maximum or minimum penal sums for operations bonds, withdrawal bonds, and unit bonds would be realistic?

4. *Transition.* (a) What problems will occur in converting controlled stock and taxpaid wine to bonded stock, and what corrective measures will be necessary for a smooth conversion?

(b) Should regulations provide for standard conversion rates similar to standard export drawback rates for rectified products returned to bond on January 1, 1980?

(c) How should bonded stock be segregated from taxpaid stock on the bonded premises of a distilled spirits plant during the transition year?

5. *Elimination of Standard Wine Premises.* How should the provisions of 27 CFR Part 240 relating to the use of standard wine premises (*i.e.*, Subpart U, Wine Other Than Standard Wine) be updated (a) to reflect the elimination of standard wine premises and (b) to provide for the segregation of standard wine operations from operations involving wine other than standard wine?

6. *Suggestions.* Suggestions and recommendations on any other topics for regulations relating to the proposed law which are administratively feasible, and which will provide the necessary degree of protection to Federal revenues, are welcome.

Disclosure of Comments and Copies of Proposed Law

Any person may obtain copies of the proposed Distilled Spirits Tax Revision Act of 1979 or inspect the written comments or suggestions concerning this advance notice during normal business hours at the ATF Reading Room, Office of Public Affairs, Room 4408, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC, 202–566–7268.

After consideration of all comments and suggestions and passage of the Distilled Spirits Tax Revision Act of 1979, ATF will issue a Treasury decision providing interim regulations which will remain in effect until the promulgation of final regulations. The proposals discussed in this advance notice may be modified due to the comments and suggestions received.

Drafting Information

The principal author of this document is Edward J. Sheehan 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

This advance notice of proposed rulemaking is issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

Signed: July 5, 1979.

G. R. Dickerson,

Director.

Approved: July 12, 1979.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

[FR Doc. 79-22202 Filed 7-17-79; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1275-7]

Approval and Promulgation of Implementation Plans Proposed Revision, Washington State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability and Advance Notice of Proposed Rulemaking.

SUMMARY: EPA announces today receipt of the Clark County Ozone Control strategy as a revision to the Washington State Implementation Plan. The public is invited to submit written comments to the record. A Notice of Proposed Rulemaking describing this revision and the action that EPA intends to take regarding this proposed revision will be published in the **Federal Register** at a later date. A second comment period for submittal of written comments will extend for thirty (30) days after the publication of the Notice of Proposed Rulemaking.

DATE: Preliminary comments on the proposed revision will be accepted by EPA until such time as EPA proposed its

decision on the Washington State Implementaton Plan. Subsequent to such proposal, EPA will again invite public comment on its proposed revision to the Washington SIP.

ADDRESSES: The Clark County ozone control strategy may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460
Air Programs Branch, Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, WA 98101
State of Washington, Department of Ecology, St. Martin College, Lacey, WA 98504

Comments should be addressed to: Clark L. Gaulding, Chief, Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101; Telephone No. (206) 442–1230 (FTS) 399–1230.

FOR FURTHER INFORMATION CONTACT: Rick White, Air Programs Branch M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442–1226 (FTS) 399–1230.

SUPPLEMENTARY INFORMATION: Section 172 of the Clean Air Act, as amended in August 1977, requires that States submit revisions to their implementation plans by January 1, 1979 to provide for the attainment of the national ambient air quality standards (NAAQS) in areas designated non-attainment.

On March 3, 1978 (43 FR 9862) EPA designated certain areas in Washington as non-attainment. Subsequently, on April 4, 1979 EPA published in the Federal Register the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Non-attainment Areas (44 FR 20372). The General Preamble is hereby incorporated into this Advance Notice of Proposed Rulemaking.

The purpose of this Notice is to call the public's attention to the fact that the Clark County Ozone Control Strategy has been formally submitted to EPA and is available for public inspection at the locations listed above. The public is encouraged to submit written comments regarding the proposed revision and thus participate in this rulemaking activity.

Those interested may wish to first read the General Preamble for proposed rulemaking published by the EPA on April 4, 1979 (44 FR 20372) which identifies the major considerations that will guide EPA's evaluation of SIP revisions. A more detailed description of this revision will be published in the Federal Register at a later date as part of a Notice of Proposal Rulemaking.

(Secs. 110, 172, Clean Air Act (42 U.S.C. 7410 and 7502)).

Dated: July 9, 1979.

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 79–22220 Filed 7–17–79; 8:45 am]

BILLING CODE 6560–01–M

[40 CFR Part 87]

[FRL 1237–2]

Control of Air Pollution From Aircraft and Aircraft Engines; Exemptions From Aircraft Emission Standards

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to amend 40 CFR Part 87 by exempting from Federal emission standards engines which power aircraft that operate in the United States for a short duration on an infrequent basis.

DATES: Comments will be received until September 24, 1979. A public hearing will be held on August 22, 1979, beginning at 9:00 a.m. Persons desiring to participate in the hearing should notify the Agency of their intention along with an outline of the points to be discussed by August 13, 1979. Final regulations, modified as the Administrator deems appropriate after consideration of comments, will be promulgated as soon as practicable after such consideration.

ADDRESSES: Interested persons are encouraged to participate in this rulemaking procedure by submitting written comments to: Central Docket Section (a–130), *Attn: Public Docket EN–79–7*, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Persons should submit indications of their intention to participate in the hearings along with outlines of discussions to: Director, Mobile Source Enforcement Division, (EN–340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

The Public Hearing will be held at the U.S. Environmental Protection Agency, Room 2409, 401 M Street S.W., Washington, D.C.

PUBLIC DOCKET: Copies of materials relevant to this rulemaking proceeding are contained in *Public Docket EN–79–7* at the U.S. Environmental Protection Agency, Central Docket Section, Room 2903B Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460 and are available for review during normal business hours (8:00 a.m.–4:00 p.m.). As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

PUBLIC HEARINGS: Notice is hereby given that there will be a public hearing on the proposed amendment to the regulations. The purpose of this hearing is to provide all interested parties with an opportunity to present an oral statement on the record regarding any aspect of the proposed amendment to the regulations. Any party desiring to make a statement at the hearing should file a notice of such intention along with an outline of the points to be discussed and the time needed for the presentation.

FOR FURTHER INFORMATION CONTACT: Thomas A. Preston, Chief, Imports and inspection Section, Mobile Source Enforcement Division (EN–340), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; telephone (202) 755–0944.

SUPPLEMENTARY INFORMATION: Section 231(a)(2) of the Clean Air Act [42 U.S.C. 7571(a)(2)], authorizes the Administrator of EPA (Administrator) to issue proposed emission standards applicable to the emission of any air pollutant from any class or classes of aircraft engines which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare. Section 232(a) of the Act [42 U.S.C. 7572], provides that the Secretary of Transportation, after consultation with the Administrator, shall prescribe regulations to insure compliance with these standards.

On July 17, 1973, EPA promulgated regulations at 40 CFR Part 87 establishing emission standards and test procedures applicable to certain classes of aircraft engines. The Department of Transportation (DOT), as a result of its enforcement efforts, has discovered and brought to EPA's attention certain situations in which the enforcement of emission standards is not appropriate, because the operation of these engines does not cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare. These situations relate to those engines which power aircraft in the United States on an infrequent basis and for short durations. Such flights include, but are not limited to, (1) flights for the purpose of export, including flights needed to demonstrate the integrity of an aircraft prior to its flight to a site outside the United States, (2) flights to a base where repairs, alterations or maintenance are to be performed, or to a point of storage, and flights to return an

aircraft to service, and (3) official visits by representatives of foreign governments.

The EPA agrees that the aircraft engines which power aircraft for those purposes mentioned above do not cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare. Therefore, pursuant to EPA's rulemaking authority of section 231(a)(2) of the Act, EPA is proposing to add section 87.7 to 40 CFR Part 87 to exempt this class of engines from Federal aircraft engine emission standards.

Section 231(a)(3) of the Clean Air Act requires that to the extent practicable, hearings held with respect to aircraft emission standards be held in air quality control regions which are most seriously affected by aircraft emissions. Because today's proposed amendment is expected to have no measurable impact on air quality and to be noncontroversial, the Agency anticipates only limited public participation at the hearing. Given the nature of the proposed change and the likelihood of only limited participation by the public, the Agency does not believe the added costs of holding a hearing outside the Washington, D.C. are justified. Therefore, the Agency has concluded that in accordance with Section 231(a)(3) of the Act, it is not praticable to hold the hearing outside of Washington, D.C.

Since the public hearing is designed to give interested persons an opportunity to participate in this rulemaking process by the presentation on data, views, arguments, or other pertinent information concerning the proposed regulations, there are no adversary parties as such. Statements by the participants will not be subject to cross examination. However, a panel of Agency representatives may ask participants questions concerning their statements. Members of the audience will be provided an opportunity to submit questions to the panel which the panel, in their discretion may ask the participants. The Presiding Officer is authorized to strike from the record statements which he deems irrelevant or needlessly repetitious, and to impose reasonable limits on the duration of the statement of any witness.

A verbatim record of each proceeding will be made. A copy of the transcript may be requested from the reporter during the hearing and will be made at the expense of the person so requesting.

Environmental Impact

The Agency expects no adverse environmental impacts as a result of these regulations. No voluntary environmental impact statement (EIS) has been prepared pursuant to EPA guidelines set forth in 39 FR 37419.

Evaluation Plan

The Agency intends to review the effectiveness and need for continuation of the provisions contained in this action no more that five years after initial implementation of the final regulation.

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: July 6, 1979.

Barbara Blum,

Acting Administrator.

Accordingly, notice is hereby given that Part 87 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to be revised by the addition of the following section:

§ 87.7 Exemptions.

The emission standards of this part do not apply to engines which power aircraft operated in the United States for short durations at infrequent intervals. Such operations are limited to:

(a) Flights of an aircraft for the purpose of export to a foreign country, including any flights essential to demonstrate the integrity of an aircraft prior to its flight to a point outside the United States;

(b) Flights to a base where repairs, alterations or maintenance are to be performed, or to a point of storage, and flights for the purpose of returning an aircraft to service;

(c) Official visits by representatives of foreign governments; and

(d) Other flights the Secretary of Transportation determines, after consultation with the Administrator of the Environmental Protection Agency, to be for short durations at infrequent intervals.

Authority: Sections 231 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7571 and 7601(a)].

[FR Doc. 79-22223 Filed 7-17-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 110]

Health Maintenance Organizations; Relationships Between Federally Qualified Health Maintenance Organizations and Other Parties

AGENCY: Public Health Service, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: As a result of his experience in implementing the Health Maintenance Organization Act, as amended, the Secretary of HEW is considering several issues concerning the extent to which federally qualified health maintenance organizations (HMOs) may affiliate, or contract for the performance of key functions, with other entities. This notice sets forth proposed policies governing those issues. After public comments are received in response to this notice, the Secretary will finalize these policies and will incorporate them into regulations or set them forth as interpretive rulings, as appropriate.

DATE: Comments must be received on or before September 17, 1979.

ADDRESSES: Written comments should be sent to the Director, Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857. The comments will be available for public inspection between the hours of 8:30 a.m., and 5:00 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: Since the implementation of Title XIII of the Public Health Service Act, ("the Act") as enacted by the HMO Act of 1973 (Pub. L. 93–222), various entities have identified significant policy questions with respect to the relationships between federally qualified HMOs and other parties. While both sets of amendments to Title XIII (Pub. L. 94–460 (1976) and Pub. L. 95–559 (1978)) clarified several of these issues, additional policy questions came to light in the course of the qualification process and through discussions with representatives of major organizations in the HMO industry, labor unions, employers and health care providers. The proposed policies contained in this notice are intended to resolve certain of

the questions. Underlying these proposed policies is the department's intent to facilitate private sector participation in HMO development and operation in order to encourage non-Federal financial support of HMOs. This notice is issued to obtain full and meaningful participation in the rulemaking process through public comment.

The issues and the Department's proposed approaches are grouped into the following five categories: (1) The legal structure of an HMO; (2) The HMO's conduct of other (non-HMO) business activities; (3) Activities of providers affiliated with the HMO; (4) Arrangements for HMO contracted services, and (5) Maximizing HMO enrollment.

1. *Legal Structure of an HMO.* The questions concerning the relationship of the legal entity (the HMO) to its sponsoring organization (the organization which provides initial financing or in-kind contributions to the HMO or which controls the policies and operations of the HMO) are whether the HMO may (1) be a cost center or separate line of business of the sponsoring organization, (2) share a license to operate (if one is required) with a sponsoring organization, and (3) be a subsidiary of a sponsoring organization.

Sections 1301(a), 1301(c), and 1310(d) of the Act require the HMO to be organized as a legal entity which provides assurances that it will continue to operate and be organized in accordance with Title XIII of the Act. The Secretary believes that these sections require the HMO to be a legal entity separate from any other legal entity, including a sponsoring organization. Therefore, the HMO may not be a cost center or line of business of a sponsoring organization, nor may the HMO share a license with the sponsoring organization. The HMO may be a subsidiary of another legal entity if the HMO is itself a legal entity and has its own separate policymaking body constituted in accordance with the requirements of the Act.

Two issues concerning the composition of the policymaking body of the private HMO are whether (1) the non-member portion of the policymaker body may consist of officers, directors, or employees of the sponsoring organization, and (2) the members who constitute the one-third portion of the policymaking body should be residents of the HMO's service area.

The Act does not address the composition of the non-member portion of the policymaking body. Therefore, officers, directors, and employees of the sponsoring organization may be included as part of the HMO's policymaking body. This is consistent with the Secretary's current policy which does not restrict the selection of the non-member (up to two-thirds) portion of the policymaking body.

Section 110.108(h)(1) of the regulation, however, does place restrictions on the one-third member portion of the policymaking body. This section states that "No member having ownership or interest in, or employed by, or gaining financial reward from direct dealings with, the HMO or with a plan-affiliated institution or organization, and no members of his immediate family shall be included in the minimum one-third member representation on the policymaking body." While this is the only regulatory restriction on the one-third HMO member portion of the policymaking body, the Secretary proposes to require that the one-third member portion reside either within or in proximity to the approved service area of the HMO. The Secretary believes that the legislative intent was to require member participation in the HMO policymaking body which would assure that input would be available to it from individuals who could represent the viewpoint of users of the HMO's services. It is also reasonable to assume that in most cases, geographical remoteness will detract from, rather than enhance, a member's familiarity with the operation and services of the HMO. Thus, the Secretary proposes to limit the member component of the policymaking body to members who live either within or in proximity to the HMO's approved service area.

The Secretary notes, with respect to HMOs with regional components and one overall policymaking body, that the geographic requirement could become unduly complex if he required the member component of the policymaking body to include a member from each region of the HMO. Thus, while the Secretary encourages representation of this nature to the maximum extent practical, where this proves burdensome to the HMO, the HMO may satisfy the proposed requirement by assuring that all individuals who are part of the member component of the policymaking body reside in geographic proximity to at least one region of the HMO.

2. *The HMO's Conduct of Other Activities.* It is the Secretary's interpretation of the Act that an HMO may not offer prepaid health benefits which do not meet the requirements of the Act (see sections 1301(b) and 1302 (1) and (2)). A related issue is whether an HMO may engage in the promotion or sale of a competing form of health coverage as an alternative to HMO coverage which meets the requirements of the Act. The Secretary believes that activities of this nature constitute a form of unrelated business which is inconsistent with the HMO concept and which could permit improper use of the "dual choice" mandate. (See section 1310 of the Act, which requires certain employers to include the option of membership in a qualified HMO in the health benefits plans offered their employees.)

The Secretary notes that it was the Congress' intent in stimulating the growth of HMOs to promote competition both in the health care delivery system and among HMOs themselves. The Secretary believes that for an HMO to offer coverage which competes with its coverage that meets the requirements of the Act would detract from, rather than stimulate, competition. Therefore, the Secretary proposes to prohibit an HMO from engaging in the promotion or sale of a competing form of health coverage. However, the Secretary believes that certain limited non-HMO activities, such as HMO ownership of property or the delivery of fee-for-service health services, are supportive of HMO functions and should be permitted.

3. *Activities of Providers Affiliated with the HMO.* Some of the questions concerned the limitations (if any) of the HMO Act on the ability of providers of health services who are affiliated with a qualified HMO to engage in HMO or HMO-like activities on behalf of another (i.e., additional) HMO or, on their own behalf. These questions are whether an HMO may (1) enter into a contract with an individual practice association (IPA), as defined in 42 CFR 110.101, if the IPA consists of physicians who are serving another qualified HMO, and (2) provide services through a group of physicians which is organized as a medical group, as defined in 42 CFR 110.101, which is also a nonqualified provider of prepaid health services.

Under existing policy, an HMO may be affiliated with physicians who are members of its staff or of a medical group (as defined in 42 CFR 110.101) even though these physicians are also affiliated with an IPA. This means that staff model or medical group model HMOs[1] may share in a common pool of physicians with the IPA–HMO model. Although the Secretary believes that it is desirable to permit this type of

[1] It should be noted that for the purposes of inclusion in an employee health benefits plan, 42 CFR 110.803 requires an employer to offer *either* a staff model HMO or a medical group model *and* an IPA, if these models are available.

physician sharing, he is concerned that, if it were to lead to alternative HMO models offering the same, or nearly similar, groups of physicians to HMO members, the result would be to limit genuine consumer choice. Since the purpose of permitting different model HMOs to participate in a dual (or multiple) choice situation is to provide employees with alternatives and to encourage competition among HMOs, the Secretary deems it appropriate to impose some limitation on the sharing principle. Accordingly, the Secretary proposes to permit physician sharing arrangements among alternative HMO models, but only to the extent that the physicians the IPA shares with the alternative model HMO (i.e., either a staff or medical group model) constitute less than 50 percent of the total IPA physician pool.

With regard to whether a medical group of a qualified HMO may also constitute itself as a non-qualified provider of prepaid health services, the Secretary notes that he is responsible for regulating the relationship of the HMO to a medical group and not the medical group per se. Section 1302(4) of the Act specifies that an HMO may affiliate with a medical group whose members devote a substantial portion of their time to the care of HMO members. 42 CFR 110.101 has interpreted this to mean that as their principal professional activity (over 50 percent individually), the members of a medical group must engage in the coordinated practice of their profession and, as a group, have substantial responsibility (over 35 percent in the aggregate of their professional activity) for the delivery of health services to members of an HMO.

The Secretary believes that Congressional silence on the use of the rest of the medical group's time implies an intent not to limit the scope of activities in which the medical group may engage when it is not providing services to its affiliated HMO. Accordingly, the Secretary believes that there is no statutory basis for prohibiting a medical group from offering itself as a non-qualified provider of prepaid health services in that portion of its time not devoted to its affiliated HMO.

4. *Arrangements for HMO Contract Services.* The policies proposed below concern the extent to which an HMO may contract with other parties to perform certain administrative functions which the HMO elects not to perform itself. Contracts of this sort may not relieve the HMO of its responsibility to comply with any requirements for qualified HMOs. While an HMO may delegate certain functions to another party, the ultimate responsibility for their satisfactory performance rests with the HMO.

With regard to whether the HMO may contract with another party to undertake marketing activities on the HMO's behalf, an HMO may enter into a marketing arrangement if the arrangement specified that the HMO retains the right to (1) terminate the agreement, and (2) implement, at any time, its own marketing activities to any groups or individuals it proposes to serve. The provisions of the contract must assure that the performance under the contract will not be inconsistent with the HMO's compliance with its assurances and applicable requirements, e.g., enrollment of a broadly representative cross-section of the population, open enrollment requirements, and the requirements for full and fair disclosure prior to enrollment of subscribers.

A related issue is whether the other party may enter into a contract with subscribers on behalf of the HMO. The Secretary has determined that so long as the obligation of the HMO to the subscriber under this agreement is no different from the obligation the HMO would have if the HMO were contracting directly with the subscriber, these contracts are not objectionable. Consistent with this determination, an HMO may voluntarily contract with another party which in turn issues to the subscriber, on behalf of the HMO, a contract for HMO membership. The membership contract must spell out clearly the obligation of the HMO to provide or arrange and be responsible for the delivery of all contracted services to the subscriber. The subscriber contract issued by the other party must, of course, (1) conform with the benefit and payment requirements of the Act, (2) specify that the HMO has ultimate responsibility for the provisions of services, and (3) specify that in the event the HMO contract with the other party terminates, the HMO is obligated to continue to provide or arrange for services to which the subscriber is entitled under the membership contract.

A related contracting issue is whether another party may enter into contracts with hospitals on behalf of the HMO for hospital services to be provided to HMO members. The Secretary has determined that it is consistent with the statute to permit another party to contract with a hospital on behalf of the HMO for these services. Although a contract, by or on behalf of the HMO, with a hospital is not required, the HMO must in all cases demonstrate to the Secretary that these hospital services will be available and accessible to HMO members in accordance with section 1301(b)(4) of the Act.

Another question is whether other parties who are not providers of health services may assume a portion of the risk for the costs of basic health services. Section 1301(c)(2) requires an HMO to assume full financial risk on a prospective basis for the provision of basic health services. The Secretary has interpreted the Act to permit the sharing of financial risk with providers of health services (for example when the HMO reimburses a medical group or IPA for services rendered or to be rendered on a capitation basis). However, an HMO will not be in compliance with section 1301(c)(2) if it contracts with a party which is not a provider of health services to pay for the cost of health services provided to HMO members in return for a fixed payment by the HMO. In this case, the other party would be assuming a portion of the risk for the provision of basic health services, which is not permitted under the Act.

Finally, some entities have asked whether a sponsoring organization may provide HMOs with insolvency protection. Section 1301(c)(1) of the Act requires the HMO to have a fiscally sound operation and adequate provision against the risk of insolvency. The Secretary does not propose to place restrictions on how the HMO obtains insolvency protection. An HMO will satisfy section 1301(c)(1) if it secures adequate insurance against the risk of insolvency from any source, including its sponsoring organization. Back-up support from the sponsoring organization in the form of restricted reserves which are available to pay HMO costs in the event of insolvency would also be acceptable.

5. *Maximizing HMO Enrollment.* Each HMO receiving financial assistance under Title XIII is required by section 1306(b)(4) of the Act to provide an assurance that it will enroll and maintain an enrollment of the maximum number of members that its available and potential resources will enable it to effectively serve. The Secretary deems it appropriate and consistent with section 1301(c)(1) of the Act, which requires the HMO to have a fiscally sound operation, to require that all qualified HMOs seek to maximize enrollment in this manner. The Secretary notes that this would apply to HMOs which perform their own marketing activities as well as to HMOs which have contracted with other parties to perform this function. In proposing to extend this requirement to all HMOs, the Secretary notes that a

recent General Accounting Office report dated May 1, 1979, supports his concern that HMOs not emphasize increasing enrollment without consideration of the larger enrollment's effect on fixed costs. While HMOs will be expected to maximize their enrollments, this should be done only in a manner which will not adversely affect their financial viability. The Secretary invites the public to suggest standards to determine whether an HMO is maximizing its enrollment.

Date: July 3, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: July 9, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-21892 Filed 7-17-79; 8:45 am]

BILLING CODE 4110-85-M

Health Care Financing Administration

[42 CFR Part 405]

Medicare Program; Requirements for ESRD Network Organization and Functions

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: These proposed amendments modify present regulations on the organization and functions of end-stage renal desease (ESRD) networks. ESRD networks are organized groups of facilities in a designated geographic area that collectively furnish all levels and modalities of care to patients with end-stage renal disease. The amendments would require that networks establish goals to maximize use of self-dialysis and kidney transplantation; that networks develop and implement procedures to prevent conflicts of interest by network members and their relatives; that networks submit expanded annual reports to the Health Care Financing Administration (HCFA); that each network coordinating council and executive committee have at least one patient representative; that ESRD facilities make individual patient information available to their networks' medical review board upon request; and that network meetings be advertised and open to the general public.

The proposed regulations are intended to: (1) Give ESRD patients and the general public a more active role in network decisionmaking processes; (2) encourage maximum use of the lower cost forms of treatment, self-dialysis and kidney transplantation; and (3) encourage greater objectivity in network decisionmaking. These amendments are required to implement provisions of the End-Stage Renal Disease Program Amendments of 1978 (Pub. L. 95-292).

DATES: Consideration will be given to written comments or suggestions received by September 17, 1979.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, P.O. Box 2372, Washington, D.C. 20013.

In commenting, please refer to MAB-89-P. Comments will be available for public inspection beginning approximately 2 weeks after publication, in room 5231 of the Department's offices at 330 C Street, SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m., telephone (202) 245-0950.

FOR FURTHER INFORMATION CONTACT: Mike Baier, Division of Network Administration, Office of End-Stage Renal Disease, Office of Special Programs, Health Care Financing Administration, 6401 Security Boulevard, Dogwood West Building, Baltimore, Maryland 21235, Telephone (301) 594-6238.

SUPPLEMENTARY INFORMATION:

Statutory Provisions

Section 1881(c) of the Social Security Act, which was added by the End-Stage Renal Disease Program Amendments of 1978 (Pub. L. 95-292), contains legislative requirements governing the organization and functions of the SERD networks. That section provides that each network organization will be responsible for the following functions:

- Encouraging the use of the treatment setting most appropriate for the successful rehabilitation of the patient;
- Developing criteria and standards for quality patient care, as well as developing network goals for placing patients in self-care setttings, or transplantation;
- Evaluating the procedure by which facilities assess the appropriateness of patients for proposed treatment settings;
- Identifying facilities not cooperating with network goals and assisting those facilities in developing appropriate plans for correction;
- Submitting an annual report to the Secretary on July 1 of each year which includes a statement of network goals; data on network performance in meeting goals; identification of facilities failing to cooperate with network goals; and recommendations with respect to the need for additional or alternative services in the network, including self-dialysis training, transplantation and organ procurement facilities; and
- Furnishing data to the Health Care Financing Administration (HCFA) on approval or expansion of ESRD services in the network area.

Section 1881(c) also provides that HCFA will be responsible for the following functions:

- Establishing network areas and organizations and a national renal disease medical information system;
- Developing regulations (if necessary) for the coordination of network planning and quality assurance activities;
- Developing regulations (if necessary) for the exchange of data with quality assurance and health planning agencies;
- Developing regulations with respect to network organization members (and their relatives) to prevent conflicts of interest on patient care decisions;
- Terminating facilities that consistently fail to cooperate with network goals;
- Taking into account network goals and performance when determining whether to certify additional facilities or allow for expansion of existing facilities;
- Submitting to the Congress legislative recommendations to further the national objective of maximizing the use of self-dialysis and transplantation consistent with good medical practice;
- Publishing guidelines and instructions to assist networks in developing goals to promote the optimum use of home dialysis, self-dialysis, and kidney transplantation; and
- Assuring patient representation on the network coordinating council and the network executive committee.

Regulatory Provisions

Currrent Medicare regulations (Subpart U of 42 CFR Part 405) already contain provisions relating to designation and functions of ESRD networks, network coordinating councils, and medical review boards. These regulations were issued to implement section 299I of the Social Security Amendments of 1972 (Pub. L. 92-603) which originally established the ESRD program. Although the regulations are consistent with the requirements of section 1881(c) of the Act, some amendments are needed to implement the provisions added by that section. Thus, we are proposing amendments with respect to patient representation on the network coordinating council and its executive committee; conflict of interest in network organizations; network goals; network annual reports; network

functions; network meeting; network medical review activities; and network incorporation.

Major Revisions

1. Patient and Public Representation on Network Coordinating Council and Executive Committee

Pub. L. 95–292 requires that at least one patient representative shall serve as a member of each network coordinating council and executive committee. Section 405.2111(a)(3) of the current regulations lists the membership requirements for each network coordinating council but contains no specific requirement that patients be represented.

We propose to amend § 405.2111(a)(3)(ix) to require that at least one of the "three informed consumers" presently required to be represented on the network coordinating council be a patient representative. Similarly, § 405.2111(b)(2) would be changed to require that at least one patient representative be a member of the network's executive committee.

We have already received several questions concerning the definition of the term "patient representative." One view is that only ESRD patients themselves should qualify as patient representatives, whereas others believe that "patient representative" should be defined more broadly to allow a non-patient residing within the network jurisdiction to qualify as a patient representative.

The amendments follow the latter approach. They define patient representative to allow a non-patient to serve in that capacity if his experience and qualifications ensure that he would effectively serve the interests of the ESRD patients in the network. The regulation cites two examples of non-patients who could qualify as patient representatives: the spouse of an ESRD patient or another individual in the network who is well informed on renal disease issues but who is not affiliated with any ESRD related organization. In accordance with this definition, each network would be responsible for developing a selection procedure which assures, to the extent possible, that the individual(s) selected does represent and serve the interest of the ESRD patients in that network. We will carefully review the selection of non-patients as patient representatives to ensure that the intent embodied in this provision is met. Because we recognize that our implementation of this provision may be controversial, we particularly invite comments on it. In addition, a new category of representation is being added to § 405.2111(a)(3) requiring that three members of the general public serve on the network coordinating council. The three members must be selected by the Health Systems Agencies in the network area. This category of representation is in addition to the three informed consumers which are already required to be on the network coordinating council. Section 405.2111(b)(2) would also be modified to require that at least one of the three members of the general public serve as a member of the network executive committee.

2. Conflicts of Interest

Section 1881(c)(1)(C) states that implementing regulations must provide for the definition, disclosure, and prevention of potential and actual financial or professional conflicts of interest with respect to network decisions concerning the appropriateness, nature, or site of patient care. The provisions would apply to network organization members and relatives of those members who:

(1) Have an ownership or control interest in a facility or provider furnishing ESRD services or supplies; or,

(2) Have been paid compensation by any facility or provider in excess of what seems reasonable for the services or goods the individual provided to the facility or provider.

During consideration of the ESRD amendments, Congress indicated its concern that the decisions of network organizations could be influenced by individuals who stand to gain financially or otherwise from particular network decisions. An earlier version of Pub. L. 95–292 would have provided that *no person* who had an ownership or control interest in a facility or who received compensation in excess of what is reasonable for goods or services rendered to a facility would be allowed to serve on network organizations. This prohibition was subsequently removed from the final version of Pub. L. 95–292 and Congress left to HCFA the implementation of its intent to prevent potential and actual conflicts of interest.

The proposed regulations are intended to prevent conflicts of interest by all network organization members in the three functional areas of activity in which networks are involved: (1) Planning; (2) facility certification; and (3) medical review. Generally, we believe that the potential for conflict of interest is not limited to owners of facilities, individuals with control interests in facilities, or individuals receiving remuneration from a facility or provider in excess of what seems reasonable for goods or services provided to the facility. All network organization members potentially represent both the interest of the facility (or organization) which designated them for membership to the network coordinating council, as well as their own personal interests, and it is possible that either of these interests could be in conflict with objective decisionmaking and ESRD program objectives.

At this time, therefore, we do not believe that an individual's ownership or control interest in an ESRD facility or receipt of excessive remuneration should automatically preclude his membership in a network organization. However, the existence of such financial and professional interests does create the potential for conflict of interest. We will be closely monitoring the performance of all networks, especially those whose membership includes a substantial number of individuals with control or ownership interests in ESRD facilities, to insure that current conflict of interest provisions are adaquate. If necessary, we will amend these regulations, based on operating experience, to prevent individual or collective conflicts of interest. Following is a discussion of the proposed scheme established by the proposed regulations to prevent conflicts of interest.

Disclosure

Disclosure would be required as the necessary first step in identifying areas where conflicts of interest might arise. All network organization members and alternate members would be required to disclose certain financial information in a signed statement that would be kept on file by the network during the member's term. The statement would be updated when there were significant changes in the facts disclosed.

Four separate categories of information would have to be disclosed.

Category 1

Each network member and alternate member would disclose certain information about each ESRD-related organization in which they supervise the care of ESRD patients, or provide goods or services to or for ESRD patients, an derive income for these activities. "Income" includes both direct and indirect monetary and nonmonetary benefits. For example, a network member who is a physician would be required to list any facility in which he supervises the care of ESRD patients regardless of whether he receives income from the facility or directly from Medicare. Of course, other health

professionals, e.g., nurses, social workers, etc., serving as network members would similarly be required to list the facilities in which they receive income for their services to ESRD patients. A network member who receives income from other ESRD related organizations, such as laboratories or manufacturing companies, would be required to list these organizations also. The information to be disclosed would include the name of the organization, the nature of the organization, the relationship of the individual member to the organization, and the type of benefit derived from the organization, e.g., salary, profitshare, etc.

Category 2

Each network member and alternate member would disclose certain information about the ERSD related organizations in which they have *any* ownership interest. The information would be basically the same as that required under Category 1 except that the type of benefit gained would not be listed.

Category 3

Each network member and alternate member would be required to list the ESRD-related organizations in which they exercise control. ("Control" exists when an individual has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution.) The information would include the name of the organization and the member's relationship to it. We would expect a member to list such relationships as membership on the Board of Directors of an organization, key professional staff membership in an organization (e.g., medical director, etc.) and significant ownership in an organization.

It is possible, therefore, that some organizations that were listed for Categories 1 and 2 would also be listed for this category.

Category 4

Disclosure of information under this category would require two separate listings. First, each network member and alternate member would list the ownership interests that their relatives have in ESRD-related organizations. We acknowledge that in some cases a member may not be aware of ownership interests his relatives have in ESRD-related organizations. However, the member would be expected to report any such information that is known to him.

Second, each network member and alternate member would be required to list the names of any ESRD-related organizations in which they have any kind of interest or relationship that is neither an income nor an ownership interest, and a dull description of the type of relationship. If, for example, a member had borrowed funds from an ESRD-related organization, or had a special financial or professional agreement with an ESRD-related organization, he would be required to describe these relationships fully.

Procedure

These amendments specify a minimum of eight requirements that the conflict of interest procedures would have to meet. Consistent with these requirements, each network would develop it own operating procedures to detect and prevent conflicts of interest. We would review each network's conflict of interest procedure to assure its adequacy and consistency with regulations. Following is a general discussion of the major regulatory requirements.

Use of Each Member's Disclosure Information

The proposed regulations include several specific requirements with respect to the network's use of each member's disclosure information. First, they would require that an individual or a committee within each network be familiar with the information so that potential conflicts can be identified if individual members fail to do so.

The regulations would also require that the designated individual or committee be present at all meetings where voting occurs or network recommendations are made. Finally, the regulations would provide that the information disclosed by the members be made available to the Secretary and to the public upon request.

Excluding From Voting any Member With Potential or Actual Conflicts of Interest

Each network member would be required to withdraw or be excluded from voting on any issue which involve the facility which that member represents or which involved a direct financial or professional benefit to the member. Thus, a member would not be allowed to vote on any network matter which directly involves one of the organizations listed in his financial disclosure statement, nor would he be permitted to vote, for example, on the application of a new facility if he were scheduled to become medical director of the new facility if it were approved. A network would be free to impose additional safeguards that it believes necessary to exclude from voting on a particular issue any members who might indirectly benefit from the outcome of that voting.

Since the passage of the 1978 amendments, we have received several letters recommending that where members of a network organization represent the same chain organization, those members together be allowed only one vote in network matters. The letters express concern over the potential for domination of network activities by chain organizations. We believe that it is premature to impose restrictions on voting by members of chain organzations at this time. However, we will closely monitor each network's performance under these regulations to determine if there is a problem that may require modification of the conflict of interest provisions.

Removal of Network Members Who Fail To Comply With Conflict of Interest Procedures

The proposed regulations would require networks to develop procedures for removing and replacing members who fail to comply with the conflict of interest procedures developed by the network. Thus, for example, the network should provide for immediate removal of any network member who refuses to submit information or submits false information in his disclosure statement.

Dissenting Opinions

The proposed regulations would permit a dissenting opininion to be filed by any network member (including those excluded from voting) who is dissatisfied with the recommendation or decision of the network on a particular issue. Networks would have to keep copies of all dissenting opinions on file within the network and include them in submittals to HCFA provided they are prepared in a timely fashion.

We expect that this "dissenting opinion" concept will enhance the network's and HCFA's ability to detect and prevent both individual and collective conflicts of interest. We will review dissenting opinions periodically in an attempt to gain a better understanding of problems networks are facing with respect to conflicts of interest. We will also analyze them in conjunction with the corresponding network decisions submitted to us.

Other Conflict of Interest Amendments

The proposed amendments would make two other changes in current

regulations. First, they would require that a network coordinating council establish conflicts of interest procedures as one of the initial functions of the council; second they would require that the network's annual report include an explanation of actions taken by the network to prevent conflicts of interest.

3. Network Goals

Section 1881(c)(6) of the Act clearly states the intent of Congress to maximize the use of lower cost treatment modalities, specifically self-dialysis and kidney transplantation, for all patients who are medically, socially, and psychologically suitable for those forms of treatment. The amendments further indicate Congress' intent that ESRD networks should exercise influence on the delivery of services while maintaining quality. In this regard, section 1881(c)(2) gives the networks responsibility for setting goals that will encourage these two types of treatment. It is our responsibility to assist networks in establishing and achieving these goals. Individual facilities also have a responsibility to contribute to the network's goals and plans. HCFA may terminate or refuse to certify facilities that fail to cooperate with the network goals and plans.

The proposed regulations would add a new § 405.2118, to describe the network goal setting process.

Identification of Goals

Section 405.2118(a) of the proposed regulations would require networks to establish goals to improve network performance both in administrative activities and in functional activities relating to planning, facility certification, and medical review. Networks' goals must be reported in a standard fashion and should, where possible, be stated in measurable terms, e.g., numbers or percentages.

The proposed regulation contains detailed requirements for networks' establishment of goals to increase the use of self-dialysis and kidney transplantation. It would require that each network develop the medical, psychological, and social standards for facilities within the network to use when assessing patients as candidates for self-dialysis and kidney transplantation. (Initially, it may be more feasible for networks to agree upon factors which would exclude patients from consideration for self-dialysis and transplantation.) We expect that the process of determining commonly accepted standards and criteria for self-dialysis and transplantation will be helpful to physicians in determining whether to suggest these forms of treatment for their patients.

This section would also require networks to assist each facility in identifying its role in achieving the network goals. Once that role is agreed upon and established, the network would monitor and evaluate each facility's performance in carrying out its role. We expect that the goals of individual facilities will be used by the network in establishing network goals. After consultation with professional and planning organizations, we will issue guidelines to assist networks in the goal setting process. We will also provide them with data from the ESRD medical information system for their use in setting network goals.

Reporting

Sections 405.2112(b) and 405.2116(a) would require that networks report their goals and related information as part of the annual report to HCFA, due July 1 of each year. The report would be expanded to include a statement of the network's goals for the upcoming calendar year, including an explanation of the methodology the network used in setting its goals, and an analysis if the network's performance in achieving its goals for the prior calendar year, including an explanation of the methodology use by the network to assess its achievement. We would review each network's performance in meeting its goals and publish a report, to be distributed to all networks and others, summarizing each network's goal achievement.

The annual report would also identify facilities that failed to cooperate with the network goals and plans, and explain how these facilities failed to cooperate; for example, by refusing to set their own goals for increasing self-dialysis and transplantation, or by deliberately failing to work toward meeting network goals. The explanation would cite any measurable evidence of the facility's lack of cooperation.

Finally, networks would include in their annual reports recommendations for additional or alternative services in the network, including self-dialysis training, transplantation, and organ procurement facilities. These recommendations are distinct from the data which networks now provide HCFA with respect to specific facility applications for approval.

Evaluation

Section 405.2118(b) states that HCFA would review all network goals for their consistency with the stated objectives of the ESRD program. In addition to reviewing all 32 networks' goals, HCFA will serve as a focal point for communications and will share ideas between networks and offer suggestions to each individual network on how it may better achieve the intent of Congress in the goal setting area.

4. Network Annual Reports

Section 405.2112(b)(2) of the current regulations would be amended to require reporting of information on the network goal setting process and on actions taken by the network to prevent conflicts of interest in network activities. Five specific requirements are being added, which are discussed in greater detail in the "Network Goals" and the "Conflicts of Interest" sections of this Preamble.

We propose to make two other changes in the network reporting requirements. First, the date for submittal of the network's annual report would be changed to July 1 as required by Pub. L. 95–292. Second, the requirement that networks submit a separate written plan of objectives on an annual basis would be deleted; that information would now be included in the network's annual report.

Over the next several months, we will be evaluating the requirements for information to be included in the annual reports currently found in § 405.2112(b)(2) to ensure that the information requested is both useful and necessary.

5. Network Functions

A new § 405.2115 would be added by the proposed regulations to describe the three major functions of the networks, i.e., planning, providing data on facility certification and approvals, and medical review activities.

6. Network Meetings

A new § 405.2116, would be added to the regulations to require that network coordinating council and committee meetings be open to the public except for those portions of meetings in which individual patient records or networks personnel matters are discussed. We believe that this requirement is consistent with the intent of section 1881(c) and that it is important that patients and the general public be given an opportunity to attend network meetings.

Section 405.2116 would also require that networks give the general public, ESRD facilities, and the Health Systems Agencies within the network reasonable advance notice of network meetings. Networks could use newspaper

announcements, newsletters, or other publications for this purpose. Minutes of open meetings would also have to be made available upon request.

Finally, a provision is also being added to § 405.2111 which would require networks to develop guidelines for giving members of the public an opportunity to comment at network meetings if they wish to do so.

7. Network Incorporation

The proposed regulations would require that each network incorporate upon designation by the Secretary of a network coordinating council and submit a copy of its articles of incorporation to HCFA. Most of the currently designated networks have already incorporated. Those few which have not yet incorporated would be required to incorporate pursuant to this provision. Incorporation is necessary in order to establish continuity of services and clarify questions of liability. Incorporation would also ensure that networks will be accountable to HCFA for the expenditure of network budget monies and for the proper and effective administration of their responsibilities, including the establishment and accomplishment of meaningful network goals.

In this regard, a new provision (c) would also be added to § 405.2111 to indicate that the Secretary may rescind the designation of any network coordinating council which fails to carry out the duties specified in § 405.2111 and 405.2112(b). If the coordinating council designation is rescinded, each facility within the network would be required to furnish a new representative to the council and the Secretary would redesignate the council in accordance with the provisions of § 405.2111(a).

8. Network Medical Review Activities

Section 1881(c)(1)(A) of the Social Security Act provides that a medical review board shall be established in each network area. These boards have already been established in accordance with prior provisions of the Act, and § 405.2113 of the current regulation specifies the functions of these boards. Although § 405.2113(d)(4) presently authorizes medical review boards to review individual patient information when they perform special studies, the regulations do not explicitly state that the review boards have this authority when they are performing other functions, including medical care evaluation studies. Therefore, we would add language to § 405.2113 to indicate that each network medical review board is authorized to review individual patient information in performing any of its medical review functions.

Provisions would also be added to prohibit medical review board members from (1) using individual patient information for purposes other than for the performance of medical review board functions, and (2) releasing the information to individuals other than those expressly specified in the proposed regulation. Medical review board members who fail to abide by these requirements will be subject to removal from all network organizational bodies.

Section 405.2133 would be amended to require that each ESRD facility—as a condition for coverage under the ESRD program—make available or furnish individual patient (and other) information to its network's medicall review boards when necessary for the medical review board to perform its authorized functions. This amendment, like the amendments to § 405.2113, implements section 1881(c)(1)(A) of the Act and makes explicit our policy in this area.

Finally, the proposed regulation would amend § 405.2136 to provide that the chief executive officer of each facility is responsible for submitting individual patient information to the network medical review board.

The proposed amendments make only the changes required by Pub. L. 95–292 and minor clarifying revisions. In developing the final regulations, we will review the whole of Subpart U, in order to reorganize and clarify provisions, delete any obsolete requirements, and redesignae it as a new Part 487.

42 CFR Part 405 is amended as follows:

1. The Table of Contents to subpart U is amended by adding new §§ 405.2115 through 405.2118 to read as follows:

Subpart U—Conditions for Coverage of Suppliers of End-Stage Renal Disease (ESRD) Services

Sec.
405.2100 Scope of subpart.
* * * * *
405.2115 Network Functions.
405.2116 Network Meetings.
405.2117 Conflict of Interest in Network Organizations.
405.2118 Network Goals.
* * * * *

2. Section 405.2102 is amended by deleting all paragraph designations, removing references to paragraph designations, and inserting the three definitions below to read as follows:

§ 405.2102 Definitions

As used in this subpart, the following definitions apply:

* * * * *

Arrangement. * * *

Conflict of interest. A situation that exists when a network member's personal, financial or professional interest influence, or could potentially influence, his performance of the duties of a network member.

Dialysis. * * *

* * * * *

ESRD facility. A facility which is approved to furnish at least one specific ESRD service. Such facilities are:

* * * * *

Self-dialysis unit. * * *

ESRD-related organization. Any organization which is either directly or indirectly engaged in an aspect of ESRD care and which directly or indirectly receives Medicare monies for such activities. (This would include, among other organizations, ESRD facilities, providers, and suppliers such as manufacturing companies, laboratories, and organ procurement agencies.)

ESRD service. * * *

* * * * *

Organ procurement. The process of acquiring donor kidneys.

Organ procurement agency. * * *

Patient representative. Ordinarily a patient within the network who has had a kidney transplant or who is undergoing dialysis. A non-patient may be a patient representative if his experience and qualifications ensure that he will effectively serve the interests of the ESRD patients in the network (for example, the spouse of an ESRD patient or other individual within the network who is well informed in renal disease issues, but is not affiliated with any ESRD-related organization).

Qualified personnel. Personnel that meet the requirements specified in this paragraph. (B) Chief executive officer. A person who:

(i) Holds at least a baccalaureate degree or its equivalent and has at least 1 year of experience in an ESRD unit; or

(ii) Is a registered nurse or physician director.

* * * * *

3. Section 405.2111 is amended by revising paragraphs (a)(3)(ix) and (b)(2), and by adding new paragraphs (a)(3)(xii)(b)(10), (b)(11), and (c) to read as follows:

§ 405.2111 Designation of network coordinating councils.

(a) With respect to each designated network area, the Secretary will, after he determines that the criteria listed

below are met, designate a network coordinating council. The criteria are:

* * * * *

(3) If not already included among the representatives designated under paragraphs (a)(2) and (a)(3) of this section, the council has appointed the following members from within the network:

* * * * *

(ix) Three informed consumers, at least one of whom must be a patient representative as defined in § 405.2102.

* * * * *

(xii) Three members of the general public to be selected by the Health Systems Agencies.

(b) Initial functions of a network coordinating council. The initial functions of a network coordinating council include at least the following:

* * * * *

(2) Elects an executive committee in each succeeding year, which is representative of the constituency of the network and consists of at least 25 percent nonphysicians. At least one member of the executive committee must be (i) a patient representative as defined in § 405.2102, and (ii) a member of the general public as required in § 405.2111(a)(3)(xii).

* * * * *

(10) Has written procedures to prevent potential or actual financial or professional conflicts of interest with respect to decisions on the appropriateness, nature, or site of patient care. The procedures must meet the requirements specified in § 405.2117(c).

(11) Has written procedures for permitting the general public to contribute comments at network meetings.

(c) If a network coordinating council fails to perform the duties specified in this section and in § 405.2112(b), the Secretary may rescind the designation of the council and a new council must be designated in accordance with paragraph (a) of this section.

4. Section 405.2112 is amended by revising the first (introductory) paragraph, by adding a new paragraph (a)(4) and redesignating paragraphs (a)(4) through (a)(7) as paragraphs (a)(5) through (a)(8), and by revising paragraph (b), to read as follows:

§ 405.2112 Designation of ESRD networks.

An ESRD network exists when the member facilities collectively furnish the full spectrum of ESRD care and a designated network coordinating council has begun to function. The Secretary will determine whether the requirements for designation of an ESRD network are met.

(a) Criteria for the designation of an ESRD network:

* * * * *

(4) The network agrees to execute formal articles of incorporation upon designation and to forward copies to HCFA.

(5) A designated network coordinating council has been formed and has begun to function.

(6) The council has established a medical review board which has begun to function to assure, through the application of suitable procedures of health care review, that the services for which payment may be made under the Social Security Act conform to appropriate standards for the provision of health care.

(7) The council has established procedures for utilizing information available from the national ESRD medical information system, and has begun to implement the procedures.

(8) The council has established working relationships with each PSRO and with each designated HSA and SHCC in the network area and with contiguous network coordinating councils.

(b) *Ongoing functions of the network coordinating council in an approved ESRD network.* The ongoing functions of the network coordinating council are performed by the council or the council's executive committee. The network coordinating council performs the following ongoing functions:

(1) Submits an annual report to the Secretary by July 1 of each year, which contains the following information:

(i) The network goals for the upcoming calendar year, including an explanation of the methodology used in setting the goals;

(ii) The network's achievement in meeting its goals for the prior calendar year, including an explanation of the methodology used for assessing its performance (with respect to meeting the goals for increasing self-dialysis and kidney transplantation, the statement must also include the comparative performance of each facility within the network in attaining its goals);

(iii) The names of any facilities which have failed to cooperate with the goals of the network including an explanation of their lack of cooperation;

(iv) Network recommendations on the need for additional or alternative services in the network, including self-dialysis training, transplantation, and organ procurement facilities;

(v) An explanation of actions taken by the network to prevent conflicts of interest in decisions concerning the appropriateness, nature, or site of patient care;

(vi) The ESRD services that each facility in the network provides;

(vii) A quantitative estimate of each facility's capacity to deliver each service;

(viii) The anticipated utilization rate for each ESRD service in each facility for each year in the subsequent 3-year period;

(ix) A statement describing reasons for the participation of an ESRD facility reporting utilization rates which do not satisfy the standard(s) for unconditional status (see § 405.2130); and

(x) An overview report on the medical review activities undertaken in the network during the previous year.

(2) Confers with its component ESRD facilities to assist each with the establishment of individual goals for increasing self-dialysis and transplantation and with the formulation of data for the annual report.

(3) Monitors the functions of the medical review board and provides for the updating as needed of procedures for review, including criteria and standards.

(4) Makes recommendations to member facilities as needed to achieve the goals of the network.

(5) Continues its working relationships with each PSRO designated in the network area with respect to the establishment of standards and criteria and the procedures for medical review.

(6) Continues its working relationships with designated HSAs and SHCCs in the network area, assuring working relationships with respect to information concerning current and projected needs for ESRD services within the network area.

(7) Furnishes consultation, as requested by the Medicare intermediary(ies) or the appropriate PSRO where it has assumed these review functions, concerning the medical necessity of services.

(8) Provides information to the Secretary concerning current and projected utilization of network member facilities.

(9) Establishes mechanisms to manage the administrative aspects of its activities.

(10) Establishes mechanisms to manage the fiscal aspects of its activities.

5. Section 405.2113 is amended by adding a new paragraph (d) and by revising and redesignating paragraph (d) as paragraph (e); by redesignating paragraphs (e) and (f) as paragraphs (f) and (g); and by changing the references to paragraph (d) to (e), to read as follows:

§ 405.2113 Medical review board.

* * * * *

(d) Persons serving on medical review boards are prohibited from using individual patient information for any purpose other than the performance of their review functions and from releasing such information to anyone except as required by law or upon request by the Secretary, a PSRO, the patient's supervising physician, the chief executive officer of the patient's facility, and other network members who require the information in order to perform their prescribed network duties. Additionally, upon receipt of a written request verifying active investigation of a particular practitioner or institution, the medical review board may disclose to the governmental agencies recognized by the Secretary as responsible for the identification, investigation and prosecution of cases of fraud and abuse in the ESRD program, copies of medical records necessary to complete their investigations. Any member of the medical review board who releases information to any other individual or organization shall be subject to removal from all network organizational bodies.

(e) The medical review board performs the following functions and uses individual patient information as necessary to perform these functions:

(1) Develops a mechanism for monitoring the effectiveness of the patient long-term program (§ 405.2137(a)) in assessing the appropriateness of patients for the proposed treatment procedures;

(2) Reviews and coodinates the evaluation of comparative performance of facilities and physicians based on aggregate data concerning patterns of care in relation to both normative data from the medical information system and criteria and standards developed by the network for at least the following areas of patient care: Appropriateness of patients for the proposed treatment procedures, mortality, and morbidity. This review includes both physician and nonphysician performance;

(3) In concurrence with the network coordinating council, coordinates the performance of medical care evaluation studies within the network, with each ESRD facility participating in at least one but usually more than one medical care evaluation study per year. The medical review board assures that the following tasks are performed for each medical care evaluation study: Selection and design of the study, setting criteria and standards, data collection and display, interpretation and analysis of the findings, institution of corrective action, and reperformance of any study which indicates a problem; and

(4) As necessary, performs or delegates the performance of other indepth studies based upon information emanating from paragraphs (e)(1) and (e)(2) of this section, the medical information system, or a perceived need. This includes the coordination and evaluation of individual patient data as necessary for at least the following areas of patient care: Appropriateness of patients for the proposed treatment procedures, mortality, and morbidity. This review includes both physician and nonphysician performance.

(f) On the basis of its reviews under paragraph (e) of this section, the medical review board provides, to facilities in the network and to physicians, written recommedations for improvements in the ESRD care of individual patients or groups of patients (or both). If there are facilities in the network, or physicians, that continue to deliver care which the medical review board considers inappropriate or of substandard quality, the medical review board provides all facts concerning this care to the council and to the Secretary.

(g) The medical review board, from time to time but not less than annually submits to the council and to the secretary a report on its activities, which includes the following:

(1) The plan of the board for conducting review activities including the process and scheduling of reviews and studies, and the process of information exchange between the board, the council, and the facilities within the network;

(2) Findings of its reviews and studies; and

(3) Recommendations with respect to the more effective accomplishment of the purposes and objectives of the board.

6. A new § 405.2115, is added to read as follows:

§ 405.2115 Network functions.

The three functional areas of network activity are:

(a) *Planning.* This activity includes:

(1) Development of network goals; and

(2) Formulating strategies to further the stated objectives of the ESRD program (see § 405.2101).

(b) *Providing data on facility certification and approvals.* This activity includes:

(1) Assessment of need for ESRD facilities and services in the network area;

(2) Analysis of the distribution of ESRD services in the network area; and

(3) An analysis of the effective utilization of ESRD treatment resources in the network area.

(c) *Medical review activities.* These activities include:

(1) Profile analysis;

(2) Medical care evaluation studies; and

(3) Any other task delegated to the network's medical review board by the network coordinating council or its executive committee.

7. A new § 405.2116, is added to read as follows:

§ 405.2116 Public participation in network meetings.

(a) *Public participation*—The general public may attend network coordinating council and committee meetings, and participate in them in accordance with written network procedures, except those portions of meetings during which individual patient records or network personnel matters are discussed. Minutes of proceedings open to the general public must be made available upon request.

(b) *Notification—Reasonable advance notice of network meetings must be given to the general public, to the Health Systems Agencies in the network area, and to each facility in the network.*

8. A new § 405.2117, is added to read as follows:

§ 405.2117 Conflict of interest procedures in network organizations.

(a) Each network coordinating council must develop operating procedures to prevent potential and actual conflicts of interest with respect to network decisions on planning, facility certification and approvals, and medical review.

(b) Each network member and alternate member must agree in writing to comply with the network's conflict of interest procedures. Any individual who fails to comply must be barred from membership in network organizations.

(c) Network conflict of interest procedures must, at a minimum:

(1) Require each network member and alternate member to submit a financial disclosure statement containing the information specified in paragraph (d) of this section;

(2) Delegate to a network member or committee of members responsibility to:

(i) Review the financial disclosure information for compliance with the requirements of paragraph (d) of this section and report non-compliance to HCFA;

(ii) Be familiar with the information provided by each network member in order to be able to identify potential conflicts of interest prior to network deliberations and voting on any issue; and

(iii) Make the information available to HCFA and to the public upon request.

(3) Require all network members to voluntarily identify any potential or actual conflicts of interest prior to network deliberations on an issue:

(4) Require all network members to report any potential or actual conflicts of interest that become apparent to them during deliberations on an issue:

(5) Exclude from voting on a particular issue any network member who:

(i) Could benefit financially or by professional advancement from that particular decision; or

(ii) In the case of medical review activities, has a professional involvement that would make it inappropriate for the member to participate in the decision or recommendation (see § 405.2113(b) and (c)).

(6) Exclude from voting on a particular issue any network member who represents an organization which will directly benefit financially or in kind from a decision on that issue;

(7) Provide the opportunity for written dissenting opinions (including opinions of members excluded from voting) on decisions made by the network;

(8) Provide a mechanism for not accepting designated representatives, and for immediately removing and replacing any network members, who fail to comply with the network's conflict of interest procedures.

(d) Each network coordinating council must obtain and keep on file a signed statement from each network member, updated when there is a significant change in the information, which separately lists the following information:

(1) *Income*—All ESRD-related organizations in which the member supervises the care of ESRD patients, or provides goods or services to or for ESRD patients, for which he derives either monetary or nonmonetary benefits. This listing must include:

(i) The name and location of the organization;

(ii) The nature of the organization (e.g., facility, medical supplier, etc.);

(iii) The relationship of the individual member to the organziation (e.g., employee, stockholder, officer, etc.); and,

(iv) The type of benefit gained from the organization (e.g., salary, profitshare, health benefits, etc.).

(2) *Ownership Interest*—All ESRD-related organizations in which the member has any ownership interest.

This listing must include:

(i) The name of the organization:

(ii) The nature of the organization; and

(iii) The relationship of the individual member to the organization.

(3) *Control*—The names of any ESRD-related organizations (including those listed in accordance with paragraphs (d)(1) and (2) of this section) in which the member exercises control. (Control exists where the individual has the power, directly or indirectly, to significantly influence or direct the action or policies of an organization or institution.)

(4) *Other Information*—The listing must include:

(i) The names of any relatives who, to the member's knowledge, receive income or have ownership interests in ESRD-related organizations. This listing must include the relationship of the relative to the organization(s), if known.

(ii) The name of any ESRD-related organizations with which the member has a relationship other than an income or ownership interest and an explanation of the relationship, e.g., personal liability, professional agreement, etc.

9. A new § 405.2118 is added to read as follows:

§ 405.2118 Network goals.

(a) *Implementation and Reporting of Network Goals.* Each network must establish goals designed to improve the performance of its administrative activities and its planning, facility certification, and medical review activities (see § 405.2115). To maximize the use of self-dialysis and kidney transplantation, each network must:

(1) Develop the medical, social and psychological criteria and standards that facilities in the network must use to determine the suitability of patients for self-dialysis and kidney transplantation;

(2) Assist each facility within the network in establishing its goals for increasing the use of self-dialysis and kidney transplantation;

(3) Utilize the goals of each facility in the network in establishing the network goals;

(4) Monitor and evaluate the performance of each facility within the network in achieving its goals;

(5) Utilize data from the ESRD medical information system, as well as other data available to the network, in completing its goals;

(6) State the goals as percentages or in some other quantifiable terms; and

(7) Report its goals and related information to HCFA in accordance with § 405.2112(b).

(b) *Evaluation:* HCFA will review each network's goals to determine that they are consistent with the national objective of increasing the use of self-dialysis and kidney transplantation. If HCFA determines that a network's goals are unreasonably low or that the network is not taking sufficient action to maximize self-dialysis and kidney transplantation, HCFA will consult with the network to establish revised goals consistent with national goals and levels of practice in other networks. If a network's goals are adequate but the network is not meeting those goals, HCFA will consult with the network to assist it in meeting its goals. HCFA will report these evaluations and consultations, and any resulting actions in its annual report to Congress.

10. Section 405.2133 is amended by adding the following sentence at the end of that section to read as follows:

§ 405.2133 Condition: Furnishing data and information for ESRD program administration.

* * * An ESRD facility must also furnish, or otherwise make available, individual patient (and other) information required by the network medical review board in the performance of those functions listed in § 405.2113(e).

§ 405.2136 [Amended]

Section 405.2136(c)(3)(v) is amended to read as follows:

* * * * *

(c) *Standard: chief executive officer.* * * *

(3) The responsibilities of the chief executive officer include, but are not limited to:

* * * * *

(v) Maintaining and submitting such records and reports, including individual patient information and a chronological record of services provided to patients, as may be required by the facility's internal committees and governing body, the Medical Review Board (§ 405.2113), or as required by the Secretary.

* * * * *

(Secs. 226, 1102, 1871 and 1881 of the Social Security Act, 42 U.S.C. 426, 1302, 1395hh, and 1395rr)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital

Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: April 23, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: July 10, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-21936 Filed 7-17-79; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FI-5636]

National Flood Insurance Program; Proposed Flood Elevation Determinations for the Borough of Flemington, Hunterdon County, N.J.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Flemington, Hunterdon County, New Jersey.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Clerk's Office, Borough Hall, Flemington, New Jersey. Send comments to: Honorable Herman Kapp, Mayor of Flemington, Borough Hall, 38 Park Avenue, Flemington, New Jersey 08822.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Flemington, Hunterdon County, New Jersey in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Walnut Brook	Downstream Corporate Limits.	168
	Private Bridge (Upstream)	172
	Corporate Limits	174
	State Route 12 (Upstream)	176
	Limit of Detailed Study	181

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

Issued: June 27, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21875 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

[44 CFR Part 67]

[Docket No. FI-5637]

National Flood Insurance Program; Proposed Flood Elevation Determinations for The Borough of Roselle Park, Union County, N.J.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Roselle Park, Union County, New Jersey.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, Roselle Park, New Jersey.

Send comments to: Honorable Virginia McKenney, Municipal Building, Chestnut Street, Roselle Park, New Jersey 07204.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Roselle Park, Union County, New Jersey in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new

buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Morses Creek	Conrail Culvert Opening	75
	West Westfield Avenue	76
	Upstream Corporate Limits	76
Morses Creek Tributary 9–1–7.	Shallow flooding is found from the downstream corporate limits to 200 feet beyond Colfax Avenue.	Depth 1
Peach Orchard Brook.	Shallow flooding is found from the downstream Corporate Limits to Dalton Street.	Depth 2

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

Issued: June 27, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21876 Filed 7–17–79; 8:45 am]

BILLING CODE 4210–23–M

[44 CFR Part 67]

[Docket No. FI–5638]

National Flood Insurance Program; Proposed Flood Elevation Determinations for the Borough of Wallington, Bergen County, N.J.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Wallington, Bergen County, New Jersey.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal building, Wallington, New Jersey.

Send comments to: Honorable Walter M. Slomienski, Mayor of Wallington, Municipal Building, Maple Avenue and Union Boulevard, Wallington, New Jersey 07057.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Wallington, Bergen County, New Jersey in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premimum rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Passaic River	Main Avenue Upstream	17
	Eighth Street Upstream	18
	Upstream Corporate Limits	19
Saddle River	Confluence with Passaic River.	19
	Conrail Bridge	19

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

Issued: June 27, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21877 Filed 7–17–79; 8:45 am]

BILLING CODE 4210–23–M

[44 CFR Part 67]

[Docket No. FI–4980]

National Flood Insurance Program; Proposed Flood Elevation Determinations for the Town of Greece, Monroe County, N.Y.; Correction

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Correction of proposed rule.

SUMMARY: Technical information provided correctly in the Flood Insurance Study and Rate Maps for the Town of Greece, Monroe County, New York, was, in part, incorrectly reported in the Notice of Proposed Flood Elevation Determinations for that community.

The following proposed base (100-year) flood elevations for selected locations correctly corresponds to the Flood Insurance Study for Greece, New York:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Buttonwood Creek	Lake Ontario State Parkway	249
	North Greece Road(Upstream).	250
	Private Road	256
	Frisbee Hill Road	259
Larkin Creek	Downstream Lake Ontario State Parkway.	252
	Upstream Lake Ontario State Parkway.	254
	Long Pond Road (Upstream).	260
	Conrail (upstream)	266
	Latta Road	306
	English Road (Upstream)	344
	Mill Road (Upstream)	376
	Confluence of East Branch Larkin Creek.	376
East Branch Larkin Creek.	Confluence with Larkin Creek	376
	Upstream Private Road	383
	Dam (Upstream)	389
	Private Road (Upstream)	390
	Ridge Road (Upstream)	417
	(Upstream) Private Drive	419
	Downstream Dam (Downstream).	425
	Upstream Dam (Upstream)	428
	Elmgrove Road (Upstream)	435
	Old Meadow Road (Downstream).	449
	Pine Valley Drive	453
Northrup Creek	Confluence with Long Pond	249
	Flynn Road (Downstream)	251
	North Greece Road (1st Crossing).	258
	Conrail (Upstream)	264
	North Greece Road (4th Upstream Crossing).	271
	North Greece Road (5th upstream crossing).	284
	Private Drive (Upstream)	294
	Latta Road	314
	Manitou Road	329

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Round Pond Creek	Confluence with Round Pond	249
	Police Department Road (Upstream).	254
	Conrail (Upstream)	260
	Kirk Road (Upstream)	271
	Wye Bridge Drive (Upstream)	283
	Latta Road (Upstream)	296
	Dam (Downstream)	313
	English Road and Private Drive (Upstream).	334
	Farm Road (Upstream)	339
	Privcate Drive (2nd downstream crossing of Maiden Lane).	375
	Maiden Lane	384
	School Drive	397
	Old Long Pond Road (Upstream).	403
	U. S. Route 104, Ridge Road	424
	Doe Run Drive (Upstream)	433
	Straub Road	446
Salmon Creek	Confluence with Braddock Bay.	249
	Payne Beach Road	252
Slater Creek	Edgemere Drive	249
	Downstream Conrail (Upstream).	252
	Ling Road (Downstream)	253
	Upstream Conrail	261
Lake Ontario	Western Corporate Limits to approximately 1,200 feet east of entrance to Round Pond into Lake Ontario.	251
	Approximately 1,200 feet east of entrance of Round Pond into Lake Ontario to eastern Corporate Limits.	249

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, Assistant Administrator, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

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

Issued: June 27, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21874 Filed 7–17–79; 8:45 am]

BILLING CODE 4210–23–M

[44 CFR Part 67]

[Docket No. FI–5639]

National Flood Insurance Program; Proposed Flood Elevation Determinations for the Village of Riverside, Steuben County, N.Y.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Riverside, Steuben County, New York.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, Painted Post, New York.

Send comments to: Honorable Gerald Sullivan, Mayor of Riverside, Village Center, 35 Stanton Street, Painted Post, New York 14780.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Riverside, Steuben County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain managemant requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chemung River	Downstream Corporate Limits.	931
	Upstream Corporate Limits	934

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

Issued: June 27, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21878 Filed 7–17–79; 8:45 am]

BILLING CODE 4210–23–M

[44 CFR Part 67]

[Docket No. FI–5640]

National Flood Insurance Program; Proposed Flood Elevation Determinations for the Town of Southport, Chemung County, N.Y.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Southport, Chemung County, New York.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, 1439 Pennsylvania Avenue, Elmira, New York.

Send comments to: Mr. George H. Carpenter, Town Supervisor of Southport, Town Hall, 1439 Pennsylvania Avenue, Elmira, New York 14904.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard Krimm, National Flood

Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Southport, Chemung County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	location	Elevation in feet, national geodetic vertical datum
Chemug River	Corporate limits with Ashland	837
	Shuyler Avenue (Extended)	846
	Morefield Street (Extended)	857
	Corporate Limits with Big Flats.	870
Seeley Creek	Upstream State Route 427 Bridge.	842
	Conrail	877
	Upstream Pennsylvania Bridge.	988
	State Route 328	1,033
South Creek	Upstream Conrail	881
	Upstream Private Bridge	911
	Christian Hollow Road	923
	Upstream Corporate Limits	1,007

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

Issued: June 27, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–21879 Filed 7–17–79; 8:45 am]

BILLING CODE 4210–23–M

[44 CFR Part 67]

[Docket No. FI–5641]

National Flood Insurance Program; Proposed Flood Elevation Determinations for the City of Troy, Rensselaer County, N.Y.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Troy, Rensselaer County, New York.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Troy City Hall, Troy, New York.

Send comments to: Honorable Stephen Dworski, Mayor of Troy, Troy City Hall, Monument Square, Troy, New York 12180.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line (800) 424–8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Troy, Rensselaer County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for seclected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hudson River	State Route 378	24
	Confluence of Wynants Kill	24
	Confluence of Poesten Kill	26
	Congress Street Bridge	27
	Ontario Street Bridge	32
	Route 4 Bridge	35
Poesten Kill	Confluence with Hudson River.	26
	Fourth Street	27
	Spring Avenue (Downstream Side).	31
	Spring Avenue (Upstream Side).	37
	5,600 feet upstream of confluence.	108
	6,000 feet upstream of confluence.	168
	Dam 1 (Upstream Side)	223
	State Highway 66/Rawling Avenue (Upstream Side).	224
	Dam 2 (Upstream Side)	234
	3,000 feet upstream side of Dam 2.	238
	5,000 feet upstream side of Dam 2.	243
	8,000 feet upstream	249
Wynants Kill	Burden Pond Dam (Upstream Side).	183
	2,000 feet upstream of Burden Pond Dam.	184
	2,100 feet upstream of Burden Pond Dam.	220
	3,400 feet upstream of Burden Pond Dam.	250
	4,000 feet upstream of Burden Pond Dam.	253
	Campbells Avenue (Upstream Side).	255
	2,000 feet upstream of Campbells Avenue.	267
	5,000 feet upstream of Campbells Avenue.	274
	7,000 feet upstream of Campbells Avenue.	285
	State Route 405 (Upstream Side).	315
	3,000 feet upstream of State Route 405.	324

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

Federal Insurance Administrator, 44 FR 20963.)

Issued: June 27, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21880 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

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44 CFR Part 67

[Docket No. FI-5642]

National Flood Insurance Program; Proposed Flood Elevation Determinations for Pittsylvania County, Va.

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations are listed below for selected locations in Pittsylvania County, Virginia.

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

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Building Official, Pittsylvania County, Chatham, Virginia.

Send comments to: Mr. M. J. Sharbough, Pittsylvania County Administrator P. O. Box 426, Chatham, Virginia 24531.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Pittsylvania County, Virginia in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Roanoke River	Downstream County Boundary.	452
	Leesville Dam (Downstream).	560
	Leesville Dam (Upstream)	615
	Smith Mountain Dam (Downstream).	621
	Smith Mountain Dam (Upstream).	803
Mill Creek	Confluence with Roanoke River.	524
	State Route 633 (Upstream)	617
	Upstream Limit of Detailed Study.	630
Reed Creek	Confluence with Roanoke River.	535
	State Route 638 (Upstream)	612
	Confluence of Reed Creek Tributary.	660
	Upstream Limit of Detailed Study.	757
Reed Creek Tributary	Confluence with Reed Creek.	660
	State Route 642 (Downstream).	695
	State Route 642 (Upstream)	701
Sycamore Creek	Town of Hurt Corporate Limits.	537
	U.S. Route 29 (Upstream)	586
	State Route 642 (Upstream)	658
	State Route 643 (Upstream)	731
	Southern Railway at Limit of Detailed Study.	801
Little Sycamore Creek	Confluence with Sycamore Creek.	640
	State Route 642 (Downstream).	692
	State Route 642 (Upstream)	697
	Limit of Detailed Study at State Route 653 (Downstream).	719
Sycamore Creek Tributary.	Confluence with Sycamore Creek.	731
	State Route 930 (Downstream).	738
	State Route 930 (Upstream)	743
	Limit of Detailed Study	790
Old Womans Creek	Confluence with Roanoke River.	618
	State Route 756	621
Tributary to Old Womans Creek.	Confluence with Old Womans Creek.	621
	State Route 756	674
	Limit of Detailed Study	733
Pigg River	Confluence with Roanoke River.	618
	U.S. Route 40	646
	County Boundary	688
Snow Creek	Confluence with Pigg River	684
	County Boundary	694
Banister River	Downstream County Boundary.	407
	State Route 682	486
	Mill Dam upstream of State Route 832.	547
	State Route 694	596
	Limit of Detailed Study at State Route 813 (Downstream).	675
Pudding Creek	Confluence with Banister River.	629
	Limit of Detailed Study	678
Whitehorn Creek	Confluence with Banister River.	490
	Limit of Detailed Study	497
Georges Creek	Downstream Limit of Detail Study.	556
	State Route 40	642
	State Route 673	701
	Dam 1,500 feet upstream of State Route 1324 (Downstream).	779
	Dam 1,500 feet upstream of State Route 1324 (Upstream).	792
Cherrystone Creek	Confluence with Banister River.	567
	SCS Dam (Downstream)	643
	SCS Dam (Upstream)	680
Green Rock Branch	Confluence with Cherrystone Creek.	602
	Limit of Detailed Study	641
Pole Bridge Branch	Confluence with Cherrystone Reservior.	680
	State Route 649 (Upstream)	720
	Limit of Detailed Study	780
Long Branch	Confluence with Cane Creek	458
	U.S. Route 58 (Downstream).	486
	U.S. Route 58 (upstream)	495
Tom Fork	Confluence with Cane Creek	404
	State Route 655 (Downstream).	437
	State Route 655 (Upstream)	445
White Oak Creek	Confluence with Banister River.	612
	State Route 718 (Upstream)	628
	Limit of Detailed Study at State Route 834 (Downstream).	672
Dan River	Downstream County Boundary.	375
	Upstream County Boundary	377
	Downstream State Boundary.	395
	City of Danville Corporate Limits (Upstream).	451
	State Boundary 1,200 feet upstream of Southern Railway.	467
	State Boundary 8,700 feet upstream of Southern Railway.	471
	State Boundary at State Route 880.	491
Cane Creek	State Boundary	385
	U.S. Route 58 (Upstream)	478
	State Route 730 (Upstream)	520
	Limit of Detailed Study	580
Fall Creek	Confluence with Dan River	403
	State Route 695 (Upstream)	468
	State Route 719 (Upstream)	534
	Limit of Detailed Study	651
Little Fall Creek	Confluence with Fall Creek	414
	State Route 723 (Downstream).	502
	State Route 723 (Upstream)	522
	Limit of Detailed Study	589
Lawless Creek	Downstream Limit of Detailed Study (2,400 feet downstream of State Route 719).	537
	Upstream Limit of Detail Study (3,400 feet upstream of State Route 719).	559
Sandy Creek	Downstream County Boundary (City of Danville).	432
	State Route 746	506
	State Route 865	618
	Limit of Detailed Study	710

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Sandy Creek	Confluence with Sandy Creek	484
	State Route 744 (Upstream)	527
	Limit of Detailed Study upstream of Farm Road.	548
Tributary A to Sandy Creek.	Confluence with Sandy Creek	437
	Limit of Detailed Study at Beaver Mill Road.	505
Sandy Creek Tributary No. 1.	Confluence with Sandy Creek	623
	Limit of Detailed Study	653
Sandy Creek Tributary No. 2.	Confluence with Sandy Creek	623
	Limit of Detailed Study	667
Tributary to Sandy Creek Tributary No. 2.	Confluence with Sandy Creek Tributary.	640
	Limit of Detailed Study	665
Sandy River	City of Danville Limits	432
	State Route 863	472
	Dam at State Route 869 (Downstream).	551
	Dam at State Route 869 (Upstream).	559
	State Route 845	646
	State Route 818 (Upstream)	731
	Limit of Detailed Study	770
Stewart Creek	Confluence with Sandy River.	572
	State Route 844 (Downstream).	590
	State Route 844 (Upstream)	595
Sandy River Tributary	Confluence with Sandy River.	732
	Limit of Detailed Study	763
South Prong Sandy River.	Confluence of Tanyard Creek	708
	State Route 934 (Downstream).	792
	State Route 934 (Upstream)	797
	Upstream Limit of Detailed Study.	815
Tanyard Creek	Confluence with South Prong Sandy River.	708
	Confluence of Glady Fork	750
Glady Fork	Confluence with Tanyard Creek.	750
	Limit of Detailed Study	773
Pumpkin Creek	Confluence with Dan River	400
	Confluence of Rutledge Creek.	431
Jackson Branch	Confluence with Dan River	401
	County Boundary (City of Danville).	401
Rutledge Creek	Confluence with Pumpkin Creek.	431
	Elizabeth Street (Downstream).	489
	Elizabeth Street (Upstream)	494
	Limit of Detailed Study	567

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

Issued: June 22, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-21881 Filed 7-17-79; 8:45 am]

BILLING CODE 4210-23-M

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 283]

Conservative Dividend Policy; Amendment of Standards for Dividend Declarations

AGENCY: Maritime Administration, Department of Commerce.

ACTION: Proposed rulemaking.

SUMMARY: This action by the Maritime Subsidy Board (Board), Maritime Administration, proposes to amend 46 CFR Part 283, Conservative Dividend Policy (CDP), to change the financial requirements which an operator of vessels receiving operating-differential subsidy (ODS) must satisfy before declaring a dividend. Pursuant to the policy embodied in Part 283, operators receiving ODS are required to adopt a dividend policy which will enable them to maintain the financial ability to reinvest adequately and timely in the U.S. Merchant Marine. The amendments to Part 283 would reduce the working capital requirement, establish a new debt/equity ratio requirement and establish a new floor net worth requirement. These amendments are being proposed because it has been determined that the present financial requirements in Part 283 are more restrictive than necessary to achieve the purposes of the Merchant Marine Act, 1936, as amended.

DATE: Comments should be received by close of business on September 17, 1979.

ADDRESS: Secretary, Maritime Subsidy Board, 14th & E Streets NW., Washington, D.C. 20230. All comments will be made available for inspection during normal business hours in Room 3099 B, Department of Commerce Building.

FOR FURTHER INFORMATION CONTACT: Murray A. Bloom, Office of Subsidy Contracts, Maritime Administration, Room 4082, Department of Commerce Building. (202) 377–4631.

SUPPLEMENTARY INFORMATION: Since Part 283 was promulgated in 1973, various members of the maritime community have commented on the prescribed working capital requirement, pointing out that the existing working capital requirement of one-half of average voyage expenses is excessive in an industry characterized by low amounts of inventory, in contrast to other industries where inventory constitutes a large portion of working capital.

A Notice of Proposed Rulemaking regarding amendments to the CDP was published on January 9, 1978 (43 FR 1363). That Notice contained proposed amendments to Part 283, including a five part dividend test: (1) Working capital equal to $1 plus one-half of all annual charter hire and other lease obligations (having a term of more than six months) and due and payable within the succeeding fiscal year, other than charter hire and such other lease obligations already included and reported as a current liability on the operator's balance sheet; (2) funds available must exceed funds required; (3) debt/equity ratio of no greater than 2/1; (4) a 90% floor net worth; and (5) a Capital Construction Fund (CCF) deposit requirement on a prorated basis.

Comments in response to the Notice were received from Waterman Steamship Corporation (Waterman) and the Council of American-flag Ship Operators (CASO).

The comments generally favored the reduction in the working capital requirement but faulted the need for inclusion of one-half annual charter hire in the working capital computation. The comments further pointed out that it was unnecessary to have both the debt/net worth ratio requirement and the funds available test and that the flood net worth requirement was also unnecessary. Finally, the comments indicated that a pro-rated CCF deposit test reduced the flexibility of the ODS operator in making CCF deposits.

In response to these comments, a new set of DCP requirements is now proposed as follows: If an operator, after payment of a proposed dividend has (1) working capital greater than $1, (2) long-term debt equal to or less than net worth, (3) funds available greater than funds required, and (4) net worth above floor net worth, it may pay a dividend of up to 100 percent of retained earnings, unless there is an operating loss in the fiscal year to the date of proposed payment of dividend coupled with operating losses in the immediately preceding two years.

If an operator cannot meet the requirements of the preceding paragraph, it may still be able to declare a dividend under the following paragraph.

If an operator, after payment of a proposed dividend, has (1) working capital greater than $1, (2) long-term debt equal to or less than two times net worth, and (3) net worth above floor net worth, it may pay a dividend up to 40 percent of prior years' earnings, less any dividends that were paid in such years, unless there is an operating loss in the

fiscal year to the date of proposed payment of dividend coupled with operating losses in the immediately preceding two years.

Prior years' earnings means the aggregate net operating income after tax (excluding extraordinary gains) for the three years immediately preceding the year in which the dividend is declared. An operator may include in prior years' earnings estimated net operating income after tax for the current fiscal year, provided that such amount is based upon actual net operating income after tax for the first nine months of the current year, provided further, that if an oeprtator includes estimated current income in its prior years' earnings computation, then it may also include only the immediately preceding two years' income in the prior years' earnings computation.

The criteria which allow dividends to be paid out of retained earnings may on occasion allow a smaller dividend than the criteria which allow 40 percent of prior years' earnings to be paid out in dividends. It is intended that the criteria allowing the greater dividend shall apply.

These amendments to Part 283 are being issued in proposed form since there has been a substantial change from the requirements previously published in proposed form. Public comment is invited and all responses will be considered.

A determination has been made that these proposed amendments to 46 CFR Part 283 do not meet any of the criteria for requiring a regulatory analysis that have been established pursuant to EO 12044 (43 FR 12661), and Department of Commerce Administrative Order 218-7 and Maritime Administration procedures (44 FR 2082).

Accordingly, 46 CFR Part 283 is proposed to be amended as follows:

1. In § 283.2 by adding a new paragraph (b); and by redesignating the existing paragraph as (a), to read as follows:

§ 283.2 In General and Definitions.

(a) *In General* * * *

(b) *Definitions.* (1) "Long-term debt" means as of any date, the total notes, bonds, debentures, equipment obligations and other evidence of indebtedness that would be included in long term debt in accordance with generally accepted accounting principles, less the balance of escrow fund depost is attributable to the principal of obligations sold, where deposits are required in accordance with 46 CFR 298.33. There shall also be included deferred lease hire, any guarantee or other liability for the debt of any other person (except fees and expenses of an indenture trustee and endorsements for deposits of checks and other negotiable instruments acquired in the ordinary course of business). Deferred income taxes shall not be included in long term debt.

(2)"Deferred lease hire" means as of any date, the outstanding long-term portion of lease or charter hire (other than lease or charter hire already included and reported as a liability on the company's balance sheet) relating to vessels, major equipment or facilities leased or chartered by the company. The Assistant Secretary shall determine:

(i) Which leases or charters are to be included in the computation of deferred lease hire; and

(ii) The computation of the outstanding long term portion of such lease or charter hire, which computation will not exceed the greater of:

(A) The amount of the Title XI obligations relating to the leased or chartered asset;

(B) One-half the aggregate of all lease or charter hire (excluding operating components) over the term of the lease or charter; or

(C) The amount determined in accordance with generally accepted accounting principles.

(3) "Equity" (net worth) means, as of any date, the total of paid-in-capital stock, pain-in-capital, retained earnings and all other amounts that would be included in equity in accordance with generally accepted accounting principles, but exclusive of (i) any receivables from an affiliate of the company or any stockholder, director, officer, or employee (or any member of the employee's family) of the company, or of an affiliate of the company (other than current receivables arising out of the ordinary course of business and not outstanding for more than 60 days) and (ii) any increment resulting from the reappraisal of assets.

(4) "Floor net worth" means the mimimum net worth required in order to fulfill the criteria of this Part and shall be computed and adjusted as follows:

(i) For existing operators, it shall be initially set at the greater of (A) 90% of the operator's existing net worth; and (B) 50% of the operator's long-term debt, contained in its audited financial statements for the year ended December 31, 1978.

(ii) For new operators, it shall initially be set at the greater of (A) 90% of existing net worth; and (B) 50% of the original long-term debt issued with respect to the operator's vessel(s).

(iii) For both existing operators and new operators, it shall be adjusted from time to time as follows: (A) increased by an amount equal to 50% of the original long-term debt to be issued with respect to new vessel construction (with respect to existing operators, new vessel construction contracts executed after December 31, 1978); and (B) decreased by an amount equal to 50% of the original long-term debt issued with respect to vessels which are removed from service or otherwise transferred or sold.

(5) "Working capital" means the difference between current assets and current liabilities, both determined in accordance with generally accepted accounting principles, adjusted as follows:

(i) Current assets shall be reduced with respect to:

(A) Amounts in or required to be set aside in any Title XI Reserve Fund, pursuant to 46 CFR 298.35(e), or CCF Security Amount prescribed by 46 CFR 298.35(f), that is being maintained pursuant to an agreement covering a vessel owned or leased by the company, or in another similar fund required under any other mortgage, indenture or other agreement to which the company is a party;

(B) Any securities, obligations or evidences of indebtedness of an affiliate of the company or of any stockholder, director, officer or employee (or any member of the family of an employee of the company or of such affiliate) except reasonable advances to agents required for the normal current operation of the company's vessels and receivables outstanding for not more than 60 days, arising out of the ordinary course of business; and

(C) An amount equal to any excess of unterminated voyage revenue over unterminated voyage expense, except where the Assistant Secretary determines such reduction to be inappropriate.

(ii) Current liabilities shall be increased by one-half of the annual payment of all charter hire and other lease obligations (having a term of more than six months), other than charter hire and other lease obligations already included and reported as a current liability on the company's balance sheet. Further in determining current liabilities there shall be deducted any excess of unterminated voyage expense over unterminated voyage revenue, except where the Assistant secretary determines such reduction to be inappropriate.

(iii) Current liabilities shall be reduced by that protion of the CCF

available for the payment of current liabilities.

(6) "Prior years' earnings" means the aggregate net operating income after tax (excluding extraordinary gains) for the three years immediately preceding the year in which the dividend is declared. An operator may include in prior years' earnings estimated net operating income after tax for the current fiscal year, provided that such amount is based upon actual net operating income after tax for the first nine months of the current year, provided further, that if an operator includes estimated current income in its prior years' earnings computation, then it may also include only the immediately preceding two years' income in the prior years' earnings computation.

2. By revising § 283.3 to read as follows:

§ 283.3 Conservative Dividend Policy Criteria.

(a) *In general.* An operator shall not declare a cash dividend, without the prior written approval of the Assistant Secretary of Commerce for Maritime Affairs (Assistant Secretary), unless it is able to satisfy the criteria of this section, after giving effect to the proposed dividend. An operator will be allowed to pay dividends up to the limit prescribed in either paragraph (b) or (c) of this section, upon satisfaction of the respective requirements set forth therein.

(b) *Retained Earnings Dividend.* An operator may declare dividends up to 100 percent of retained earnings, unless there is an operating loss in the fiscal year to the date of proposed payment of dividend, coupled with operating losses in the immediately preceding two years, if the following requirements would be met after payment of the proposed dividend:

(1) *Debt/Equity Ratio.* An operator's ratio of long-term debt to equity must be at least one-to-one.

(2) *Funds Available Test.* An operator will be deemed to have given due regard to its contractual obligations to construct and acquire vessels and related barges and containers and to retire indebtedness on, or secured by, subsidized vessels and related barges and containers, or incurred in connection with the acquisition, construction or reconstruction of such vessels and related barges and containers if the operator's payment of dividends is limited to 40 percent of prior years' earnings or the operator has an excess of "funds available" over "funds required" as both terms are defined in this subparagraph.

(i) Funds available shall mean the sum of:

(A) Amounts on deposit in any fund established pursuant to the Act plus accrued deposits (including interest) to, less accrued withdrawals from any such fund;

(B) Gross book value, as shown on the operators' books of account, of subsidized vessels and related barges and containers less accumulated depreciation;

(C) Progress payments made on subsidized vessels and related barges and containers undergoing construction, reconstruction, or reconditioning;

(D) Progress payments made on additional vessels and related barges and containers, if any, which the operator has agreed to construct or acquire pursuant to any contract entered into with the Assistant Secretary or the Maritime Subsidy Board (Board);

(E) Balance of trade-in allowances pursuant to § 510 of the Act;

(F) The present value of leases capitalized in accordance with the Financial Accounting Standards Board Statement of Financial Accounting Standards No. 13—Accounting for Leases (FASB–13); and

(G) Working capital as defined in § 283.2(b).

(ii) Funds required shall mean the sum of:

(A) 25 percent of the total cost to the operator of (*1*) subsidized vessels under construction, reconstruction or reconditioning, (*2*) additional vessels under construction, reconstruction or reconditioning which the operator has agreed to construct, reconstruct or recondition pursuant to any contract entered into with the Assistant Scretary or the Board, and (*3*) barges and containers under construction or under contract to purchase and to be used as part of the complement of such vessels;

(B) 25 percent of the total cost to the operator, estimated at the time a cash dividend is to be declared, of (*1*) replacement of subsidized vessels required to be replaced under the current ODSA (this cost must be indicated whether or not the operator anticipates leasing replacement vessels), (*2*) additional vessels which the operator has agreed to construct or acquire pursuant to any contract entered into with the Assistant Secretary or the Board, and (*3*) barges and containers required as part of the complement of such vessels;

(C) The present value of leases capitalized under paragraph (2)(i)(F) of this section, excluding that portion of any such amount payable within one year; and

(D) Outstanding indebtedness on, or secured by, subsidized vessels and related barges and containers, or incurred in connection with the acquisition, construction or reconstruction of such vessels and related barges and containers.

(3) *Working Capital.* An operator's working capital must equal or exceed one dollar.

(4) *Floor Net Worth.* An operator will be deemed to have maintained the financial ability to reinvest in the U.S. Merchant Marine when it is above the floor net worth. Floor net worth shall be computed as in § 283.2(b).

(c) *Forty Percent Dividend.* An operator may declare a dividend of up to 40 percent of prior years' earnings, less any dividends that were paid in such years, unless there is an operating loss in the fiscal year to the date of proposed payment of dividend coupled with operating losses in the immediately preceding two years, if after payment of the proposed dividend, it would meet the requirements in paragraphs (b)(3) and (b)(4) of this section and its ratio of long-term debt to equity would be not greater than two to one. An operator may, with the prior approval of the Assistant Secretary, temporarily raise its debt/net worth ratio limit during periods of construction of new vessels.

(d) *Waiver or Modification of Requirements.* The Assistant Secretary may waive or modify any of the financial terms or requirements, otherwise applicable in this Part 283, upon determining that other factors exist which make alternate terms or requirements appropriate. An example of such a situation would involve an operator that (1) has no replacement obligation; (2) has a guarantee of charter hire or other guarantees sufficient to cover capital costs; and (3) leases vessels and must capitalize long-term lease hire on its books as long-term debt. As a result of leasing vessels and carrying the lease payment as long-term debt, the operator will have difficulty meeting the 2 to 1 or 1 to 1 long-term debt to net worth criteria. In such cases, the Government's interest may be sufficiently protected, although the operator cannot meet the standard Part 283 requirements.

3. In § 283.6, by revising paragraphs (b) and (c) to read as follows:

§ 283.6 Notification and reporting requirements.

* * * * *

(b) *Reports.* The operator must submit a report as described below whenever it declares a dividend or applies for approval under § 283.5 to declare a

dividend as of the approximate date of such delaration or request. Such statements must be no older than 30 days. If no report is submitted during the calendar year, than a report shall be submitted within ninety days of the end of its annual accounting period as of the last day of such period. If the Maritime Administration determines that the operator was, for any reason, not qualified to pay the dividend, then the operator shall be required to seek approval for any subsequent dividend declaration. If such approval is then granted, the operator may follow the requirements of Part 283 once again. The reports required by this Section shall be computed in accordance with the definitions set forth in paragraph 283.2(b) and shall include:

(1) The ratio of debt to equity, floor net worth and prior years' earnings in the format set forth in Schedule A;

(2) The excess of "funds available" over "funds required" in the format as set forth in Schedule B;

(3) Working capital of the operator, in the format set forth in Schedule C; and

(4) Other applicable limitations prescribed in any agreements between the operator and the Assistant Secretary affecting the payment of dividends.

Note: A separate statement shall be submitted showing the adjustments made to working capital, long-term debt and net worth to conform to the definition of such items as contained herein.

(c) *Officials to whom notices and reports are to be directed.* All notices, reports and requests prescribed in this part are to be submitted to the Secretary, Maritime Administration, Washington, D.C. 20230, in triplicate, with a copy of such notice or request to the appropriate Maritime Administration Region Director.

4. By revising the attached suggested format for schedules to read as follows:

BILLING CODE 3510-15-M

Schedule A

Ratio of Debt to Equity, Floor Net Worth, and Prior Years' Earnings

_____, 19__

_____
(Company)

Long-term debt $_____

Capital stock $_____

Retained earnings $_____

Shareholders' equity $_____

Ratio of debt to equity _____

Floor net worth as computed in accordance with §283.2(b) 4 $_____

Prior years' earnings as defined in §283.2(b) 6 $_____

_____
(Signature of Chief Financial Officer or other authorized officer)

Schedule B

Funds Available and Funds Required

_____ _____,19__
(Company)

I. FUNDS AVAILABLE

A. On deposit in statutory funds:

Capital construction fund	$_____	
Construction reserve fund	_____	
Construction and escrow funds	_____	
Plus accrued deposits to funds (or less accrued withdrawals from funds)	_____	$_____

B. Gross book value of vessels and related barges and containers employed in subsidized services:

Subsidized vessels	_____	
Related barges	_____	
Related containers	_____	
Less accumulated depreciation	(_____)	_____

C. Progress payments made on subsidized vessels and related barges and containers undergoing construction, reconstruction or reconditioning _____

D. Progress payments made on additional vessels and related barges and containers agreed to be constructed or acquired _____

E. Balance of trade-in allowances (§ 510 of the Act) _____

F. Capitalized Financing Leases _____

G. Net Working Capital (from Schedule C) _____

TOTAL FUNDS AVAILABLE $_____

II. FUNDS REQUIRED

A. Cost of current commitments:

1. ODSA vessels under construction or reconstruction:

Number of Vessels	Total Cost	Less Government Contributions	Cost to Operator
_____	$_____	($_____)	$_____

25% of Cost to Operator $_____

2. Additional vessels under construction, reconstruction or reconditioning pursuant to a contract with the Assistant Secretary or the Board:

Number of Vessels	Total Cost	Less Government Contributions	Cost to Operator
_____	$_____	($_____)	$_____

25% of Cost to Operator $_____

3. Barges and containers under construction or contract to purchase:

Number of	Cost to Operator	
Barges_____	$_____	
Containers_____	$_____	$_____

25% of Cost to Operator $_____

B. Estimated cost of additional vessels (whether to be owned or leased):

1. Subsidized vessels to be replaced under ODSA:

Number of Vessels	Total Cost	Less Government Contributions	Cost to Operator
_____	$_____	($_____)	$_____

25% of Cost to Operator $_____

2. Additional vessels agreed to be constructed or acquired:

Number of Vessels	Total Cost	Less Government Contributions	Cost to Operator
_____	$_____	($_____)	$_____

25% of Cost to Operator $_____

3. Additional barges and containers required as the complement of vessels agreed to be constructed or acquired in items B1 and B2 above:

Number of	Cost to Operator	
Barges_____	$_____	
Containers_____	$_____	$_____

25% of Cost to Operator $_____

C. Outstanding indebtedness on, or secured by, subsidized vessels and related barges and containers, or incurred in connection with the acquisition, construction, or reconstruction of such vessels and related barges and containers: $_____

D. The present value of leases capitalized under § 283.3(c)(1)(vi), excluding that portion of any such amount payable within one year:

$_____

TOTAL FUNDS REQUIRED: $_____

III. EXCESS FUNDS (DEFICIENCY OF FUNDS) $_____

_____
(Signature of Chief Financial Officer or other authorized officer)

BILLING CODE 3510-15-C

Schedule C

Determination of Working Capital
(As Defined in 46 CFR 283.2)

_____, 19__

_____
Company

A. CURRENT ASSETS:

Cash and marketable securities	$_____	
Accounts receivable (current)	_____	
Other current assets (specify)	_____	
Total	$_____	
Less accrued deposits to CCF, Title XI Reserve Fund, etc.	$_____	
Other adjustments (specify)	_____	$_____

B. CURRENT LIABILITIES:

Current liabilities	$_____	
Add one-half annual charter hire (if not included above)	_____	
Less payments to be made currently from CCF	_____	
Other adjustments (specify)	_____	_____

C. WORKING CAPITAL:

Current assets less current liabilities $_____

_____
(Signature of Chief Financial Officer or other authorized officer)

(Section 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840), as amended by P.L. 91-469 (84 Stat. 1026); Department of Commerce Organization Order 10-8 (38 F.R. 19707), July 23, 1973.)

By Order of the Maritime Subsidy Board.
Dated: July 12, 1979.

Robert J. Patton, Jr.,

Acting Secretary.

(Catalog of Federal Domestic Assistance program No. 11.504, Operating-Differential Subsidy (ODS)).

[FR Doc. 79-22060 Filed 7-17-79; 8:45 am]

BILLING CODE 3510-15-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 68]

[CC Docket No. 79-143; RM-2893, RM-3303, RM-3334, and RM-3336]

Connection of Telephone Equipment, Systems and Protective Apparatus to Certain Private Line Services; Signal Power Limitations; and Accommodating 4-Wire Telephone Network Connections and Interfaces

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: The Chief, Common Carrier Bureau, exercising authority delegated by the Commission in its Notice of Proposed Rulemaking in this proceeding, is scheduling informal meetings at the Commission's Washington, D.C. offices to address the technical details involved in this proceeding. Entities interested in changes to Part 68 of the FCC's rules to encompass private line and 4-wire telephone network interfaces and related matters are encouraged to send technically competent personnel to these meetings who will be prepared to discuss the technical matters involved. This order also publishes the text of petitioners' specific proposed rule changes, and it encourages personnel who will be attending the meetings to become familiar with these proposals and, if necessary, to prepare for distribution at the meetings alternatives thereto.

DATES: Meetings are initially scheduled at the FCC's Washington, D.C. offices during July 16-20 and July 23-27, 1979, starting at 10:00 A.M. on July 16, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jay L. Witkin, (202) 632-9342.

Adopted: June 7, 1979.

Released: July 12, 1979.

By the Chief, Common Carrier Bureau:

In the Matters of petitions seeking amendment of Part 68 of the Commission's rules concerning connection of telephone equipment, systems and protective apparatus to certain private line services, and related changes in § 68.308 signal power limitations; and petition seeking amendment of Part 68 of the Commission's rules to accommodate 4-wire telephone network connections and interfaces; Further notice of proposed rulemaking; order convening meetings.

1. In a *Notice of Proposed Rulemaking* herein, adopted by the Commission on June 7, 1979, notice was given of proposed changes in Part 68 of the FCC's Rules and Regulations to accommodate connection of premises equipment to certain private line services and to 4-wire telephone network interfaces. That order specified that the initial procedure to be employed for this rulemaking will be public meetings under the Commission's *aegis*, with participation by Commission staff, and under the direction of the Chief, Common Carrier Bureau, and the order further encouraged all interested entities to send technically competent personnel to such meetings who will be prepared to discuss the technical issues involved. While the *Notice* discussed in detail petitioners' proposed rule amendments, it did not publish their terms. Rather, it delegated authority to the Chief, Common Carrier Bureau to publish the specific proposed rule amendments.

2. Pursuant to authority delegated by the Commission in the Notice herein, meetings are hereby convened in the Commission meeting room, (Room 856, 1919 M St., N.W. Washington, D.C. 20554) commencing July 23, 1979 at 10:00 a.m. Unless it is decided to the contrary during the course of such meetings, the meetings will continue during the weeks of July 23-27 and July 30-August 3, and we would ask that interested members of the public anticipate this schedule in making personnel plans.

3. Also pursuant to authority delegated in the *Notice* herein, attached to this order are petitioners' specific rule proposals. You will note that the subsection numbers published herein do not include the alphabetic designation, e.g. 68.A10D 314, used in the June 27, 1979 release. No substantive changes have been made in the proposals, but the numbering changes were necessary to conform the proposed rules to the system in use by the Commission. We would encourage all personnel who will be attending these meetings to become familiar with these proposals, and if necessary to prepare for distribution at the meetings alternatives thereto. Any such handouts will, of course, be made part of the record herein.

4. Accordingly, pursuant to Sections 1, 4, 5, 201-05 and 403 of the Communications Act of 1934 as amended, 47 U.S.C. 151, 154, 155, 201-05 and 403, and 5 U.S.C. 553, it is hereby ordered, That: (1) meetings are hereby initially scheduled at the Commission's Washington, D.C. offices during the weeks of July 23-27 and July 30-August 3, 1979; (2) petitioners' specific proposed rule amendments are hereby published in Attachment A to this order; and (3) the Secretary shall cause a copy of this order to be published in the **Federal Register.**

Philip L. Verveer,

Acting Chief, Common Carrier Bureau.

The following proposed amendments to subparts §§ 68.2 through 68.314 of the Commission's Rules and Regulations, 47 CFR 68 were suggested by the American Telephone and Telegraph Company (AT&T). Alphabetic designations used in the initial proposal released by the Commission informally, e.g. A10D, have been deleted in most instances. Those designations which remain in subparts .308, .312 and .314 will be changed during the rulemaking process to conform to existing rules.

Brachets ([]) indicate portions proposed to be deleted and arrows (><) indicate portions to be changed or added.

Proposed Rule

Section 68.2 is amended by adding new language and new paragraphs (a) (1), (2) and (3) and (d).

§ 68.2 Scope.

(a) General. Except as provided for in Paragraphs (b), (c), ► and (d) ◄ the rules and regulations in this Part apply to the direct connection:

(1) of all terminal equipment to the ► public switched ◄ telephone network, for use in conjunction with all services other than party line service and coin service;

► (2) of all terminal equipment to channels furnished in connection with foreign exchange lines (customer-premises end), the station end of off-premises stations associated with PBX and Centrex services, trunk-to-station tie lines (trunk end only) and switched service network station lines (CCSA and EPSCS) [hereinafter, referred to as Category I services]; and

(3) after (effective date) of PBX (or similar) systems to private line services for tie trunk type interfaces, off-premises station lines, automatic identified outward dialing, and message registration. ◄

(b) Grandfathered Terminal Equipment (other than PBX and Key Telephone systems) and Protective Circuitry. All terminal equipment (other than PBX and key telephone systems) and protective circuitry of a type directly connected to the ► public switched ◄ telephone network ► and Category I services ◄ as of October 17, 1977, may be connected thereafter up to July 1, 1979—and may remain connected for life—without registration unless subsequently modified.

The output power of grandfathered data equipment [except as provided in subparagraph (c)(1) below] connected behind PBX and key telephone systems, must not exceed –9dB with respect to one milliwatt. This level must be asured by the manufacturer or his authorized agent.

(c) Grandfathered Private Branch Exchange (PBX) and Key Telephone Systems:

(1) Entire PBX and key telephone systems, including their equipments, premises wiring, and protective apparatus (if any) directly connected to the ► public switched ◄ telephone network ► and Category I services ◄ on June 1, 1978, may remain connected to the ► public switched ◄ telephone network ► and Category I services ◄ for life without registration, unless subsequently modified.

(2) Additions may be made to systems which qualify under subparagraphs (c)(1) and (c)(3) for life without registration of any additional equipments involved provided that any premises wiring added conforms to these rules, and any equipment added is of a type directly connected to the ► public switched ◄ telephone network ► or Category I services ◄ as of June 1, 1978. No additions may be made to grandfathered equipments except by the manufacturer thereof, or a duly authorized agent of the manufacturer.

(3) New systems may be intalled up to January 1, 1980 without registration of the equipments involved, provided that any premises wiring conforms to these rules, and any such unregistered equipments are of a type directly connected to the ► public switched ◄ telephone network ► or Category I services ◄ as of June 1, 1978. No changes may be made to grandfathered equipments except by the manufacturer thereof, or a duly authorized agent of the manufacturer.

(4) Separate, identifiable and discrete protective apparatus used with these systems (usually "connecting arrangements") may be removed, or replaced with apparatus of lesser protective function, provided that:

(i) Any premises wiring whose classification is changed thereby is qualified as if newly installed under these rules.

(ii) All equipments in the system are of a type directly connected to the ► public switched ◄ telephone network ► or Category I services ◄ as of June 1, 1978, or are registered.

► (d) Grandfathered Private Branch Exchange (or similar) Systems for Connection to Private Line Type Services (Tie Trunk Type Interfaces, Off-Premises Station Lines, Automatic Identified Outward Dialing, and Message Registration):

(1) PBX (or similar) systems, including their equipments, premises wiring, and protective apparatus (if any) directly connected to a private line type service on February 1, 1979 may remain connected to the private line service for life without registration unless subsequently modified.

(2) New systems may be installed and additions may be made to systems which qualify under the previous subparagraph up to February 1, 1979 without registration of any equipments involved, provided that any premises wiring installed or added conforms to these rules, and any such unregistered equipments are of a type directly connected to a private line service as of February 1, 1979. No changes may be made to grandfathered equipments except by the manufacturer thereof, or a duly authorized agent of the manufacturer.

(3) Separate, identifiable and discrete protective apparatus used with these systems (usually "connecting arrangements") may be removed, or replaced with apparatus of lesser protective function, provided that:

(i) Any premises wiring whose classification is changed thereby is qualified as if newly installed under these rules.

(ii) All equipments in the system are of a type directly connected to a private line service. ◄

Proposed Rule

Section 68.100 is amended by adding new language.

§ 68.100 General.

In accordance with the rules and regulations in Subpart B of this Part, terminal equipment may be directly connected to the ► public switched telephone network and to those private line services included in § 68.2(a)(ii). In addition, PBX (or similar) systems may be directly connected to those private line services included in § 68.2(a)(iii). ◄

Proposed Rule

Section 68.3 is amended by adding new language to paragraphs (a), (e), (f), (g), (n) and (o), by adding new paragraphs (q) through (z) and new Figures 68.3(c), (d), (t), (v), (x) and (z)

§ 68.3 Definitions.

(a) *Auxiliary Leads.* Terminal equipment leads at the interface, other than telephone connections► and leads otherwise defined in these Rules,◄ which leads are to be connected either to common equipment or to circuits extending to central office equipment.

* * * * *

(e) *Longitudinal Voltage.* One half of the ►vector◄ sum of the potential difference between the tip connection and earth ground, and the ring connection and earth ground► for the tip, ring pair of 2-wire and 4-wire connections: and additionally for 4-wire telephone connections, one half of the► vector ◄sum of the potential difference between the tip 1 connection and earth ground and the ring 1 connection and earth ground for the tip 1, ring 1 pair (where tip 1 and ring 1 are the receive pair).◄

(f) *Loop Simulator Circuit.*►A circuit that simulates the network side of a 2-wire or 4-wire telephone connection during testing. A schematic of the type of circuit that will be required is shown in Figure 68.3(a) for 2-wire loop or ground start circuits, Figure 68.3(b) for 2-wire reverse battery circuits, Figure 68.3(c) for 4-wire loop or ground start circuits, and 68.3(d) for 4-wire reverse battery circuits.◄ Alternative implementations may be used provided that the same dc voltage and current characteristics and ac impedance characteristics will be presented to the equipment under test as are presented in the illustrative schematic diagrams. When used, the simulator circuit shall be operated over the entire range of loop resistance as specified in the Figures, and with the indicated polarities and voltage limits. Whenever loop current is changed, sufficient time shall be allocated for the current to reach a steady-state condition before continuing testing.

(g) *Metallic Voltage.* The potential difference between the tip and ring connections► for the tip, ring pair of 2-wire and 4-wire connections and,

additionally for 4-wire telephone connections, between the tip 1 and ring 1 connections for the tip 1, ring 1 pair (where tip and ring 1 are the receive pair).◄

* * * * *

(n) *Telephone Connection.* Connection to telephone tip and ring leads► for 2-wire and 4-wire connections and, additionally, for 4-wire telephone connections, tip 1 and ring 1 leads◄ and all connections derived from these leads. The term "derived" as used here means that the connections are not separated from telephone tip and ring► or from telephone tip 1 and ring 1 ◄by a sufficiently protective barrier (where tip 1 and ring 1 are the receive pair). ◄ ►Part 68 Rules that apply specifically to telephone tip and ring pairs shall also apply to telephone tip 1 and ring 1 pairs unless otherwise specified. In 4-wire connections, leads designated tip and ring at the interface are for transmitting voice frequencies toward the network and leads designated tip 1 and ring 1 at the interface are for receiving voice frequencies from the network.◄

(o) *Telephone Network.* The public switched network► and those private lines which are vulnerable to the harms that could be caused by the connection of terminal equipment thereto (see Section 68.2(a) (ii) and (iii).◄

* * * * *

►(q) *Channel Equipment.* Equipment in the private line channel that furnishes telephone tip and ring, telephone tip 1 and ring 1, and other auxiliary or supervisory signaling leads for connection at the private line channel interface (where tip 1 and ring 1 is the receive pair for 4-wire telephone connections).

(r) *Private Line Channel.* Telephone company dedicated facilities and channel equipment used in furnishing private line service for the exclusive use of a particular party or parties.

(s) *Tie Trunk Transmission Interfaces.* (1) 2-Wire: A 2-wire transmission interface with a path that is essentially lossless (except for 2dB switched pad operation) between the interface and the 2-wire, transmission reference point of the terminal equipment (outgoing side of the outgoing switch appearance of a conventional 2-wire analog PBX).

(2) 4-Wire Lossless: A 4-wire transmission interface with a path that is essentially lossless, as defined in (i), and

(3) 4-Wire Conventional Terminating Set (CTS): A 4-wire interface with a path to the transmission reference point that has a conventional terminating set providing 2-wire to 4-wire conversion with approximately 4dB of loss and having no gain elements. This device's loss will be referred to as a "nominal" 4dB, but in no case is it allowed to be less than 3dB.

(t) *E&M Leads.* Terminal equipment leads at the interface, other than telephone connections and auxiliary leads, which are to be connected to channel equipment solely for the purpose of transferring supervisory signals conventionally known as Types I and II E&M and schematically shown in Figure 68.3(t). These leads apply only to tie trunk type ports.

(u) *Off-Premises Station Interface.* The point of connection between PBX telephone systems (or similar systems) and telephone company private line communication facilities used to access registered station equipment located off the premises. Equipment leads at this interface are limited to telephone tip and ring leads (designated T (OPS) and R(OPS)) and to loop-start applications only. Unless otherwise noted, all T(OPS) and R(OPS) leads shall be treated as telephone connections for purposes of fulfilling registration conditions.

(v) *Off-Premises Line Simulator Circuit.* A load impedance for connection, in lieu of an off-premises station line, to PBX (or similar) telephone system loop start circuits (Figure 68.3(v)) during testing. The schematic diagram of Figure 68.3(v) is illustrative of the type of circuit which will be required; alternative implentations may be used provided that the same dc voltage and current charactieristics and ac impedance characteristics will be presented to the equipment under test as are presented in the illustrative schematic diagram. When used, the simulator shall be operated over the entire range of loop resistances as indicated in Figure 68.3(v) and with the indicated polarities. Whenever loop current is changed, sufficient time shall be allocated for the current to reach a steady-state condition before continuing testing.

(w) *AIOD Leads.* Terminal equipment leads at the interface used solely to transmit Automatic Identified Outward Dialing (AIOD) data from a PBX to a central office so that a telephone company can provide a PBX customer with a detailed monthly bill identifying long distance usage by individuals PBX stations, tie trunks or the attendant. Data on the channel is transmitted in only one direction, from the PBX to the central office, and consists of a trunk number and a station number for each outgoing call. Two-way dc simplex signaling, as defined for the terminal equipment by the data channel simulator circuit, is used to coordinate the transmitting and receiving functions. One or more pairs of AIOD leads, each designated T (AI) and R (AI) to distinguish them from other tip and ring leads, may appear at an interface, depending on the number of central offices that process AIOD calls for the PBX. However, unless otherwise stated, these leads at the interface should be treated as telephone connection as defined in (n) of this section or as tip and ring where the term "telephone connection" is not used.

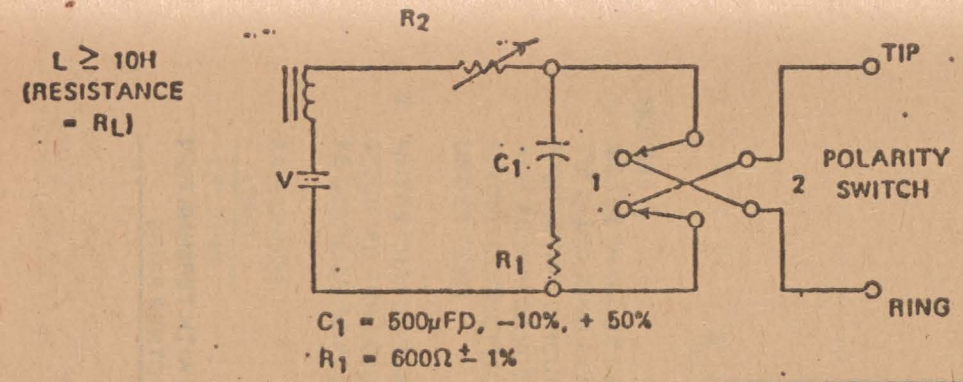
(x) *AIOD Data Channel Simulator.* A test circuit that simulates a telephone line during the idle and data-receiver-attached conditions of central office AIOD circuits. The schemnatic of Figure 68.3(x) is illustrative of the type of circuit that will be required; alternative implementations may be used provided that the same dc voltage and current characteristics and ac impedance characteristics will be presented to the AIOD equipment under test. When used, the simulator circuit shall be operated over the entire range of resistance, polarities and voltage limits indicated in Figre 68.3(x). Whenever dc current is changed sufficient time shall be allocated for the current to reach a steady-state condition before continuing the test.

(y) *Message Register Leads.* Terminal equipment leads at the interface used solely for receiving dc message register (MR) pulses from a central office at a PBX so that message unit information normally recorded at the central office only is also recorded at the PBX. Signaling on the channel is by the application of battery and open conditions applied at the central office. No ac signaling is applied either by the PBX or by the central office. One or more pairs of MR leads, each designated T (MR) and R (MR) may appear at an interface depending on the number of PBX–CO trunks (one MR channel per PBX–CO trunk). However, unless otherwise stated, these leads at the interface should be treated as telephone connections as defined in Subpart (n) of this Section or as tip and ring where the term "telephone connection" is not used.

(z) *Message Register Signaling Channel Simulator.* A circuit that simulates a telephone line (2-wire or single conductor) and a central office message register battery feed circuit used to convey message register information from the central office to a PBX. The schematic of Figure 68.3(z) is illustrative of the type of circuit that will be required; alternative implementation may be used provided that the same dc voltage and current characteristics and

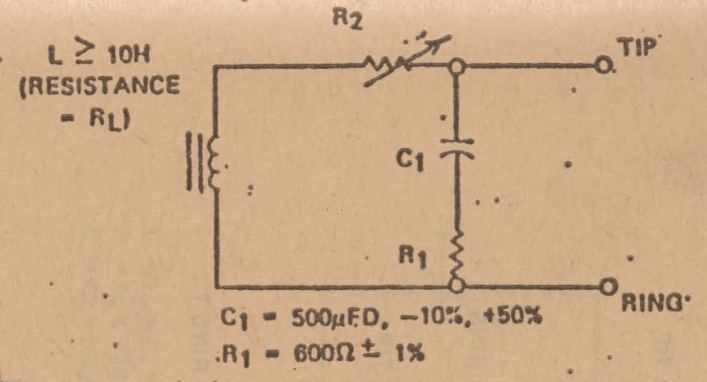
ac impedance characterisitics will be presented to the message register equipment under test. When used, the simulator circuit shall be operated over the entire range of resistance and voltage values indicated in Figure 68.3(z). Whenever dc current is changed, sufficient time shall be allocated for the current to reach a steady-state condition before continuing the test.

BILLING CODE 6712-01-M



CONDITION	V, VOLTS		SWITCH POSITION FOR TEST	R_2 + R_L
	MIN	MAX		
1	42.5	52.5	BOTH	CONTINUOUSLY VARIABLE OVER 400 TO 1740 Ω
2	105		2	2000 Ω

Figure 68.3(a): Loop Simulator for 2-Wire Loop Start and Ground Start Circuits.



R_2 + R_L
CONTINUOUSLY VARIABLE OVER 400 TO 2450 Ω

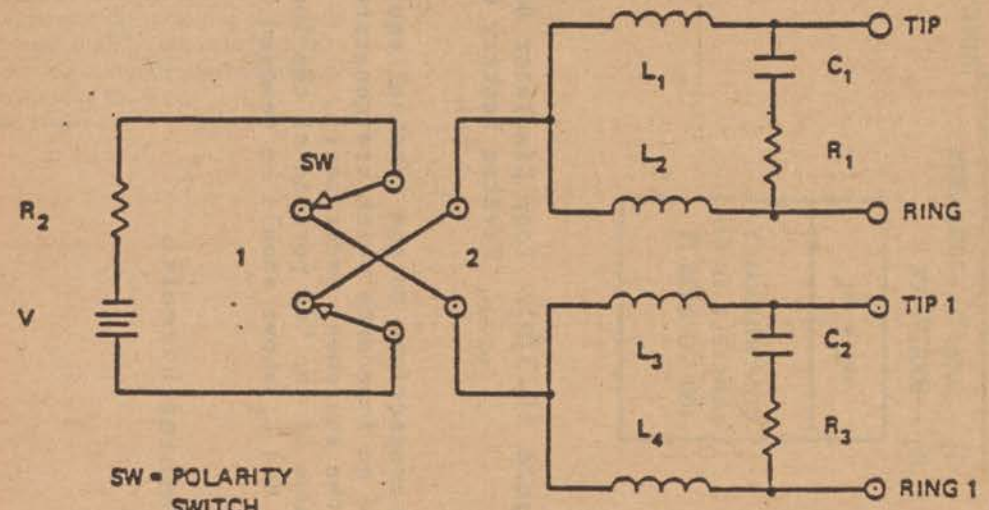
Figure 68.3(b): Loop Simulator for 2-Wire Reverse Battery Circuits

NOTES:

1. Means shall be used to generate, at the point of tip and ring connections to the terminal equipment or protective circuitry, the parameters of dc line current and ac impedance which are generated by the illustrative circuits depicted above (as appropriate for the equipment under test).
2. In the Longitudinal Balance Limitations, Section 68.310, the use of the "dc portion of the loop simulator circuit" is specified. In such case, components R_1 and C_1 above should be removed.

FIGURES 68.3(a) and (b) Loop Simulator Circuits

LOOP SIMULATOR CIRCUIT FOR 4-WIRE LOOP START AND GROUND START



SW = POLARITY SWITCH

$L_1 = L_2 = L_3 = L_4 > 5H$ (RESISTANCE = $R_{L1}, R_{L2}, R_{L3}, R_{L4}$)

$R_1 = R_3 = 600$ OHMS, ± 1%

$C_1 = C_2 = 500\ \mu$FD, −10%, +50%

CONDITION	V VOLTS		SWITCH POSITION FOR TEST	$R_2 + R_L$ *
1	MIN 42.5	MAX 52.5	BOTH	CONTINUOUSLY VARIABLE OVER 400 TO 1740 Ω
2	105		2	2000 Ω

* $$R_L = \frac{R_{L1} R_{L2}}{R_{L1} + R_{L2}} + \frac{R_{L3} R_{L4}}{R_{L3} + R_{L4}}$$

NOTES:

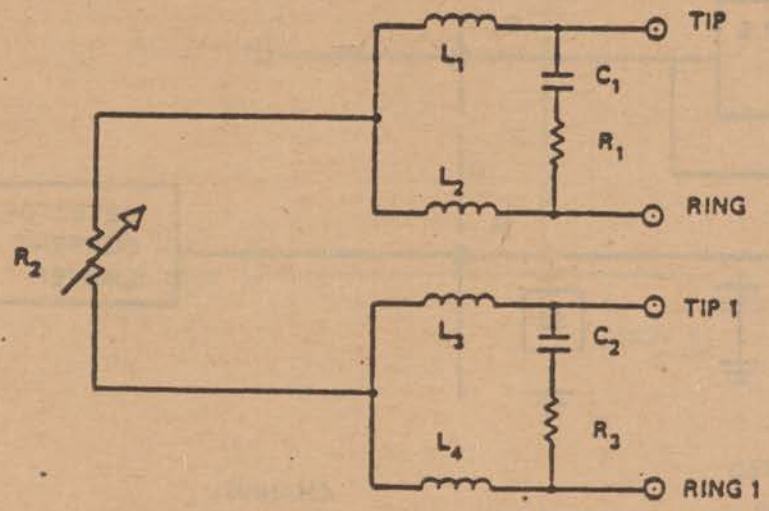
1. MEANS SHALL BE USED TO GENERATE, AT THIS POINT OF TIP, RING, TIP 1 AND RING 1 CONNECTIONS TO THE TERMINAL EQUIPMENT OR PROTECTIVE CIRCUITRY, THE PARAMETERS OF DC LINE CURRENT AND AC IMPEDANCE WHICH ARE GENERATED BY THE ILLUSTRATIVE CIRCUITS DEPICTED ABOVE (AS APPROPRIATE FOR THE EQUIPMENT UNDER TEST).

2. WHERE THE "DC PORTION OF THE LOOP SIMULATOR CIRCUIT" IS SPECIFIED FOR LONGITUDINAL BALANCE TESTS, THE CIRCUIT SHALL BE MODIFIED AS FOLLOWS:

PAIR UNDER TEST	REMOVE	REPLACE THE FOLLOWING WITH TERMINATION SPECIFIED FOR ALL OTHER PAIRS
TIP, RING	R_1 C_1	R_3
TIP 1, RING 1	R_3 C_2	R_1

FIGURE 68.3 (C)

LOOP SIMULATOR CIRCUIT FOR 4-WIRE REVERSE BATTERY CIRCUITS



$L_1 = L_2 = L_3 = L_4 > 5H$ (RESISTANCE = R_{L1}, R_{L2}, R_{L3}, R_{L4})
$R_1 = R_3 = 600$ OHMS, ± 1%
$C_1 = C_2 = 500\mu$ FD, -10%, +50%

$R_2 + R_L$
CONTINUOUSLY VARIABLE OVER 400 TO 2450 Ω

$$R_L = \frac{R_{L1} R_{L2}}{R_{L1} + R_{L2}} + \frac{R_{L3} R_{L4}}{R_{L3} + R_{L4}}$$

NOTES:

1. MEANS SHALL BE USED TO GENERATE, AT THE POINT OF TIP, RING, TIP 1, AND RING 1 CONNECTIONS TO THE TERMINAL EQUIPMENT OR PROTECTIVE CIRCUITRY, THE PARAMETERS OF DC LINE CURRENT AND AC IMPEDANCE WHICH ARE GENERATED BY THE ILLUSTRATIVE CIRCUITS DEPICTED ABOVE (AS APPROPRIATE FOR THE EQUIPMENT UNDER TEST).

2. WHERE THE "DC PORTION OF THE LOOP SIMULATOR CIRCUIT" IS SPECIFIED FOR LONGITUDINAL BALANCE TESTS, THE CIRCUIT SHALL BE MODIFIED AS FOLLOWS:

PAIR UNDER TEST	REMOVE	REPLACE THE FOLLOWING WITH TERMINATIONS SPECIFIED FOR ALL OTHER PAIRS
TIP, RING	R_1 C_1	R_3
TIP 1, RING 1	R_3 C_2	R_1

FIGURE 68.3 (d)

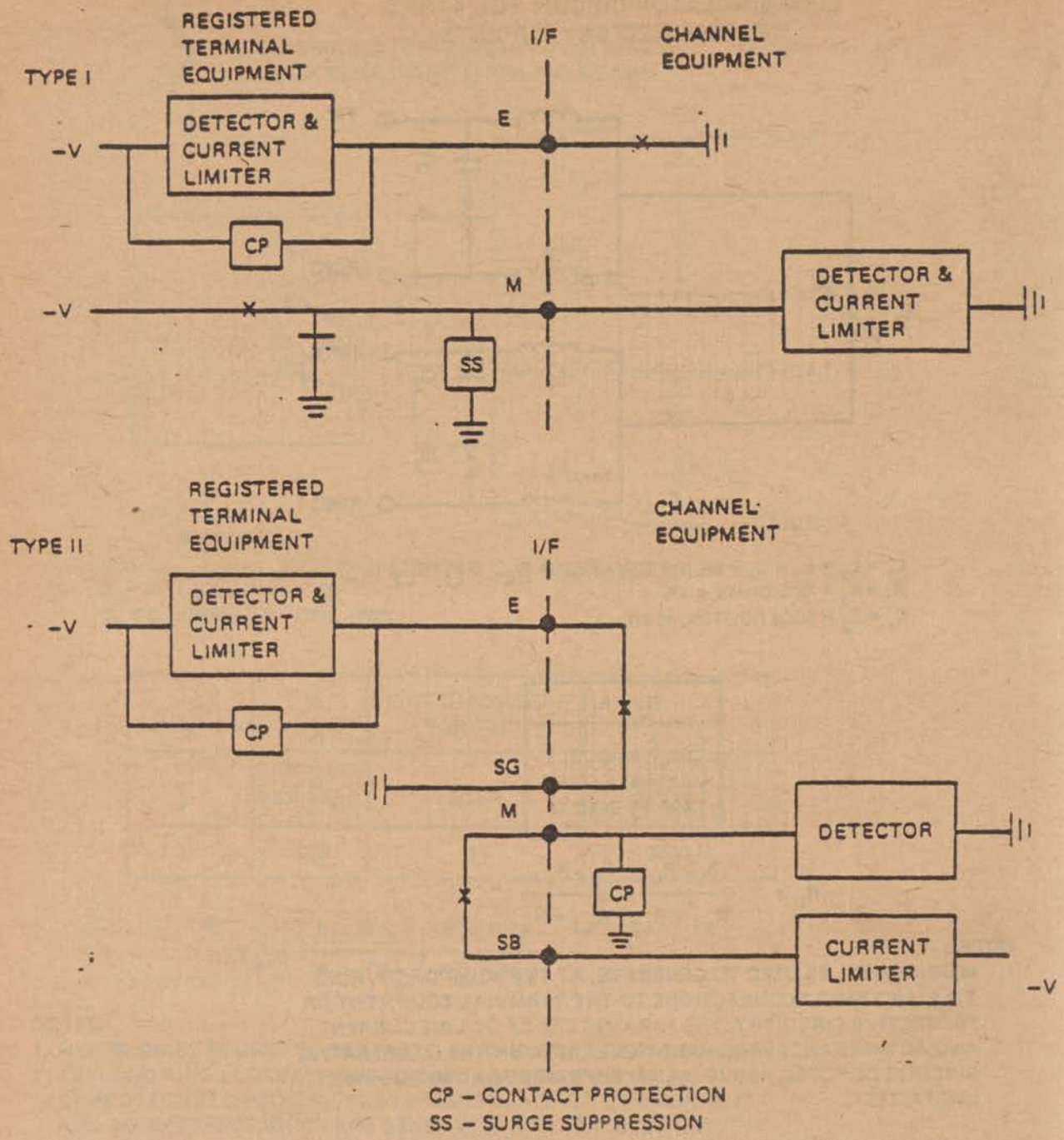
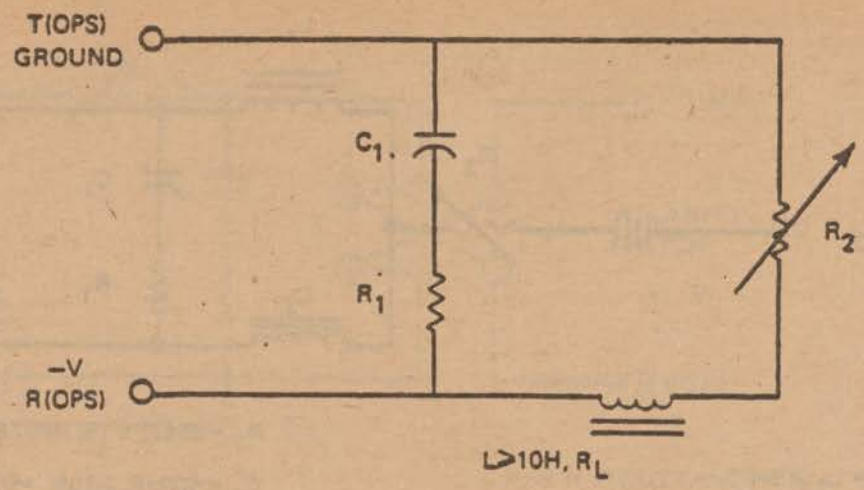


FIGURE 68 .3(t)
E&M TYPES I & II SIGNALING



C_1 = 500μF, –10%, +50%

R_1 = 600Ω ± 1%

$R_2 + R_L$ IS CONTINUOUSLY VARIABLE FROM R_L TO R^*_{MAX}

* TO BE ADOPTED SUBSEQUENT TO INDUSTRY NEGOTIATION

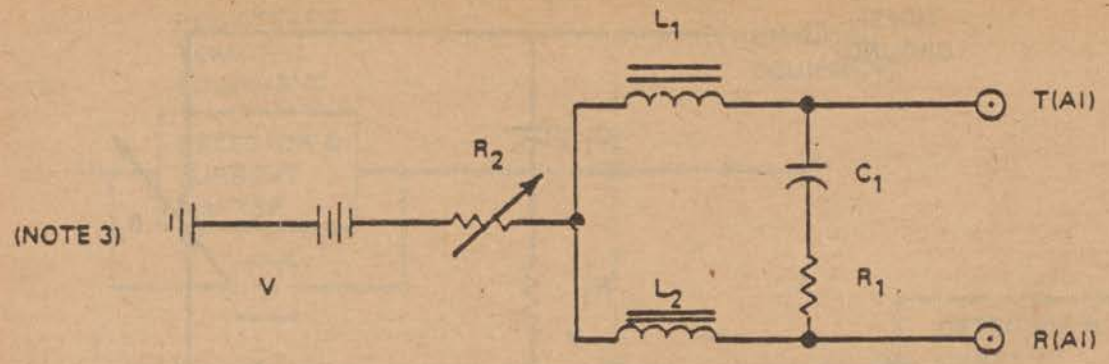
NOTES:

1. Means shall be used to generate, at the point of tip (T[OPS]) and ring (R[OPS]) connections to the PBX, the range of resistance and impedance which are employed by the illustrative circuit depicted above.

2. In the longitudinal balance limitations, section 68/OPS.310, the use of the "dc portion of the line simulator" is specified. In such case, components R_1 and C_1 above shall be removed.

FIGURE 68.3(v)

OFF-PREMISES LINE SIMULATOR



$R_1 = 600\Omega \pm 1\%$ (NOTE 2)

$L_1 = L_2 \geq 5H$

$C_1 = 500\mu F, -10\%, +50\%$

OPERATING STATE	V VOLTS		$R_2 + R_L$,* OHMS (NOTE 5)
	MAX.	MIN.	
1	+3 (NOTE 4)	−3 (NOTE 4)	600-1400
2	+3	−3	600-1400
3	−55.5	−39.5	300-1400

$$*R_L = \frac{R_{L1}R_{L2}}{R_{L1}+R_{L2}}$$

NOTES:

1. Means shall be provided to generate, at the point of T(AI) and R(AI) connections to the PBX, the dc line current and impedance values that are employed by the illustrative circuit depicted above.

2. For signal power measurements in 68/AIOD.308 (c) and (d) other than voiceband metallic and in the 3995 to 4005 hertz band, use resistive terminations specified in place of R_1.

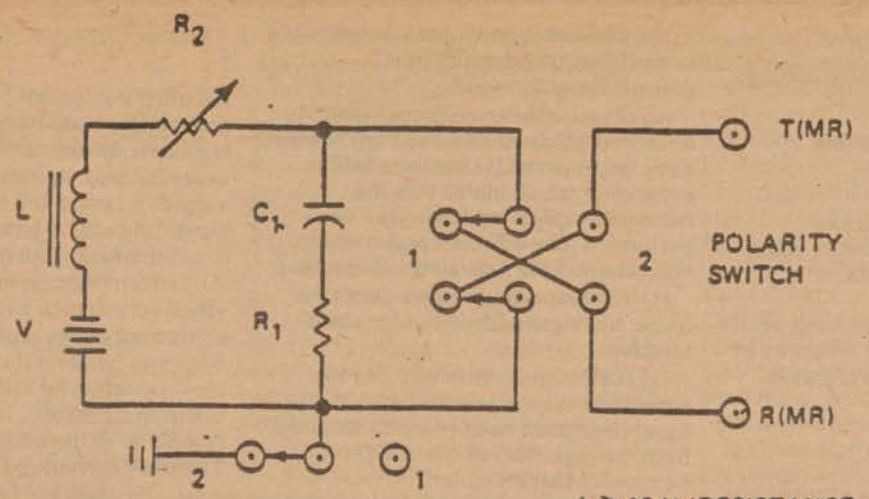
3. Ground lead should be bonded to simplex signaling ground of registered terminal equipment.

4. The ±3-volt battery shall be used to extend the range of total battery applied to an overall circuit. Thus, if the registered terminal equipment condition provides -42.5 to -52.5 volts, the overall circuit (simulator and PBX AIOD) shall be tested over a range of -39.5 to 55.5 volts.

5. Continuously variable over the range specified.

FIGURE 68 .3(x)

AIOD DATA CHANNEL SIMULATOR CIRCUIT



CONDITION	V. VOLTS		POLARITY SWITCH POSITION	MODE SWITCH POSITION	$R_2 + R_L$ OHMS (NOTE 4)
	MIN	MAX			
1	42.5	52.5	BOTH	1	250-1450
2	39.5	55.5	BOTH	2	250- 850
3.	63.5	79.5	BOTH	1	1450-2650

NOTES:

1. Means shall be used to generate, at the point of T(MR) and R(MR) connections to the PBX, the range of resistance and impedance values that are employed by the illustrative circuit depicted above.

2. Mode switch position 1 is for metallic return operation; mode switch position 2 is for ground return operation.

3. For signal power measurements specified in 68/MR.308, use Figures 68/MR.308(b) and (c) for R_1.

4. Continuously variable over range shown.

FIGURE 68 .3(z)

BILLING CODE 6712-01-C

Proposed Rule

Section 68.106 is amended by adding new paragraph (d).

§ 68.106 Notification to telephone company.

* * * * *

►(d) *AIOD Trunk and Station Number Verification:* Customers who intend to install or have installer performed additions to an rearrangements of AIOD functions shall give notice to the telephone company in accordance with Section 68.222(d).◄

§ 68.222

Proposed Rule

Subpart C of Section 68 is amended by adding new § 68.222. **AIOD trunk and station number verification.**

►(a) *Verification Requirements.* (1) *General.* The proper identification of 4-digit PBX-central office trunk numbers and PBX station numbers for purposes of Automatic Identified Outward Dialing (AIOD) shall be verified as a part of intitial installation and subsequent installer performed additions to and rearrangements of AIOD functions. All number verifications shall be obtained at the AIOD data channel interface with equipment capable of receiving the identities as transmitted by the registered terminal equipment.

(2) *Trunk Numbers.* The 4-digit trunk number identified for each PBX-central office trunk, when seized, shall be the same as the 4-digit trunk assigned by the telephone company at the PBX-central office trunk interface.

(3) *Station Numbers.* The 4-digit station number indentified for each station, incoming tie trunk, and the attendant when connected to a PBX-central office trunk shall be verified to: 1) be in the group of station numbers assigned by the telephone company and, 2) be the same as the number assigned to or intended to correspond uniquely to the station, tie trunk, or attendant.

(b) *Verification Personnel.* Operations associated with the verification of AIOD trunk and station number assignments shall be performed under the supervision and control of a supervisor, as defined in paragraph (c) of this section. The supervisor and installer may be the same person.

(c) *Supervision.* Operations by installation personnel shall be performed under the responsible supervision and control of a person who:

(1) Has at least six months of on-the-job experience in the installation of telephone terminal equipment.

(2) Has been trained by the registrant in the operation of the AIOD feature and in the performance of operations needed to verify proper identification procedures and results.

(d) *Documentation requirements.* A notarized affidavit and one copy thereof shall be prepared by the installation supervisor which states that the required verification tests have been performed. The affidavit and its copy shall contain the following information:

(1) The responsible supervisor's full name, business address and business telephone number.

(2) A statement as to whether the supervisor complies with § 68.222. The supervisor must have received training from the registrant of the AIOD equipment being verified.

(3) Date when AIOD service involving the trunk and station numbers verified will start.

(4) The business affiliation of the installation personnel.

(5) Date when the verification tests took place.

(6) A list of the trunk and station numbers actually assigned and a statement that each of these is being properly identified as required in paragraph (a) of this section

(7) If the registered terminal equipment with AIOD capabilities allows the customer to activate station number assignments without the aid of the installer, a statement that spare numbers programmed into the equipment that can be activated by the customer meet the requirements of paragraph (a) (3) of this section.◄

Proposed Rule

Section 68.302 is amended by adding language to paragraphs (d) and (e) and the undesignated flush paragraph, and by deleting paragraph (f).

§ 68.302 Environment simulation.

* * * * *

(d) *Metallic Voltage Surge.* Two 800-volt peak surges of a metallic voltage (one of each polarity) having a 10-microsecond maximum rise time to crest and a 560-microsecond minimum decay time to half crest applied between ►a) ◄tip and ring► of a 2-wire connection; b) between tip and ring, between tip 1 and ring 1, and between tip and tip 1 (with tip and ring tied together and tip 1 and ring 1 tied together) of a 4-wire connection; ◄and (c) any other pair of connections on which lightning surges may occur (with one of the connections of the pair under test grounded) with the equipment in each of the following states:

(1) * * *

(2) * * *

(3) * * *

* * * * *

All other equipment leads (telephone connections, auxiliary leads, and terminals for connection to nonregistered equipment) not being surged or connected to those being surged should be terminated in a manner which is no less severe than that which occur in normal use and affect compliance with Subpart D. Also, equipment states which cannot be achieved by normal means of power shall be achieved artificially by appropriate means, if necessary to comply with the above requirements. The peak current drawn from the surge generator must not be limited to less than 100 amperes by the capabilities of the surge generator► except for the simplexed arrangement in case (b), which must not be limited to less than 200 amperes.◄

(e) *Lontitudinal Voltage Surge.* With registered terminal equipment in each of the following states: first, any operational state which can affect compliance with the requirements of Part 68, second, any state in which the equipment might be connected to► a private line channel◄ and from which it is capable of transferring to an operational state by an automatic or manual action required for proper use of the equipment and provided that each state can affect compliance with the requirements of Part 68 and third, any state in which the equipment might be connected to► a private line channel ◄through an automatic or manual action under all reasonably foreseeable possibilities of disconnection of connections of such equipment with primary commercial power sources (including possible loss of equipment grounding through disconnection of a third-wire ground connection contained in a primary power source plug):

(1) Two 1500 volt peak surges (one of each polarity) having a 10 microsecond maximum rise time to crest and a 160 microsecond minimum decay time to half crest applied separately between► each of the following leads individually and (i) and (ii) below, and also between all of the following leads tied together and (i) and (ii) below: tip, ring, tip 1, ring 1, M.◄

(i) Earth ground; and

(ii) All leads on the registered equipment intended for connection to non-registered equipment when these leads are connected together.

The peak current drawn from the surge generator must not be limited to less

than 200 amperes by the capabilities of the surge generator.

* * * * *

[(f) Failure Modes Resulting from the Application of Metallic and Longitudinal Surges] [deleted]

Proposed Rule

Section 68.304 is amended by adding language to (f) and Note (a), and by adding new Note (e).

§ 68.304 Leakage current limitations.

* * * * *

(f) all ►E&M◄ lead terminals and is gradually increased, from zero to the values listed in the table below, over a thirty second time period, and then applied continuously for one minute, the current in the mesh formed by the voltage source and these points shall not exceed 10 milliamperes peak at any time during this 90 second time interval.

Voltages Applied for Various Combinations of Electrical Connections

Voltage source connected between	Value to which test voltage is gradually increased, rms, 60 hertz
(1) and (3) ►Note (e)◄	1000
(1) and (4) ►Note (e)◄	1000
(1) and (6) ►Note (e)◄	1000
(2) and (3)	1500
(2) and (4)	1500
(2) and (5)	1500
(3) and (6)	1000
(4) and (6)	1000

Notes:

(a) If, in any operational state, one of the telephone connections or ►E&M Leads◄ has an intentional conducting path to earth ground, that lead may be excluded from the leakage current test in that operational state. Connections excluded for this reason must comply with the requirements of ►Section 68.306 (c)◄ in addition to the other applicable rules. ►However, leakage current tests between telephone connections and E&M leads are required unless both points have intentional conducting paths to earth ground.◄

* * * * *

►(e) For multi-unit equipment interconnected by cables, the maximum allowable leakage current can be increased to (10N + 0.04L) milliamperes peak where L is the length of interconnecting cable in the leakage path in feet and N is the number of equipment units connected in parallel across a telephone connection. However, all combinations of electrical connections requiring the increased limitation and involving point (3) surfaces must comply with the requirements of Section 68.306(c) in addition to other applicable rules.◄

Proposed Rule

Section 68.306 is amended by adding new language to paragraphs (a), (b) and (c), and adding new paragraph (d).

§ 68.306 Hazardous voltage limitations.

(a) *General.* Under no condition of failure of registered terminal equipment or registered protective circuitry, or of equipment connected thereto, which can be conceived to occur in the handling, operation or repair of such equipment or circuitry, shall the open circuit voltage on telephone connections ►or *E&M leads*◄ exceed 70 volts peak for more than one second ►except for voltages for network control signaling and supervision, which, in any case, should be consistent with standards employed by the telephone companes. Registered terminal equipment shall also assure that during normal operation, at an AIOD data channel interface, 1) no significant ac voltage to ground other than for data transmission appears on the tip (AI) and ring (AI) leads; 2) no open circuit dc voltage to ground appears on the tip (AI) and ring (AI) leads other tan in the range from 0 to −52.5 volts; and 3) voltage transients appearing on either the tip (AI) or ring (AI) to ground as a result of inductive components in the registered terminal equipment shall not be capable of delivering more than 2 joules to a 500 ohm resistive termination.

(1) *Type I E&M leads.* Registered terminal equipment shall assure that 1) the dc current in the E lead does not exceed 100 milliamperes, 2) no significant ac voltage to ground appears on the E&M leads and 3) the open circuit dc voltage to ground on the E&M leads does not exceed 52.5 volts and is not positive. M lead transfer contract protection shall be provided to limit voltage transients during contact transfer by assuring that voltages to ground do not exceed 80 volts with power dissipation capability of 0.5 watt. If the registered terminal equipment contains an inductive component in the E lead, it must assure that the transient voltage across the contact as a result of a relay contact opening, does not exceed the following voltage and duration limitations: 1) 300 volts peak, 2) a rate of change of one volt per microsecond, and 3) an 80 volt level for more than 10 milliseconds.

(2) *Type II E&M leads.* Registered terminal equipment shall assure that (1) the dc current in the E lead does not exceed 100 milliamperes and no significant ac voltage to ground appears on the E lead, (2) no significant ac or dc voltages to ground appear on the M, SG, and SB leads from sources in the registered terminal equipment, and (3) the open circuit dc voltage to ground on the E lead does not exceed 52.5 volts and is not positive. If the registered terminal equipment contains an inductive component in the E lead, it must asssure that the transient voltage across the contact, as a result of a relay contact opening, does not exceed the following voltage and duration limitations: (1) 300 volts peak, (2) a rate of change of one volt per microsecond, and (3) and 80 volt level for more than 10 milliseconds.

(3) *Off-premises station voltages.* (i) Talking battery or voltages applied by the PBX (or similar systems) to OPS interface leads for supervisory purposes must be negative with respect to ground, shall not exceed 80V dc, and shall not have a significant ac component.

(ii) Ringing signals applied by the PBX (or similar systems) to OPS interface leads shall be applied for the purpose of station alerting only, and shall comply with requirements in (d) below. Ring voltages shall be applied between the ring conductor and ground.◄

(b) Connection of nonregistered equipment to registered terminal equipment or registered protective circuitry.

(1) *General.* leads to or any elements having a conducting path to telephone connections, or ►E&M Leads◄ shall:

(i) * * *

(ii) * * *

(2) Connections to registered terminal equipment: The voltage measurable between ►E&M leads and ground,◄ tip and ring, tip to ground, ring to ground, ►tip 1 and ring 1, tip 1 to ground,◄ and ►ring 1 to ground◄ shall not exceed 70 volts peak for more than 1 second, with tip to ring ►and tip 1 to ring 1, ◄ each terminated with 1500 ohms center-tapped through 1000 ohms to ground ►and each E&M lead terminated in 1500 ohms to ground,◄ if 120 volts rms 60 Hz ac is applied between all connections to other equipment tied together (except connections to nonhazardous voltage sources) and ground. The source shall not be limited to less than 20 amperes continously, nor to less than 50 amperes for 1 minute, and shall not be interrupted by an over-current device permitting less total energy flow than a 20 ampere time delay fuse or breaker.

(3) Connections to registered protective circuitry: The voltage measurable between ►E&M leads and ground, tip and ring, tip to ground, ring to ground, tip 1 and ring 1, tip 1 to ground ◄ and ► ring 1 to ground,◄ shall not exceed 70 volts peak for more than 1 second, with tip to ring ►and tip 1 to ring 1,◄ each terminated with 1500 ohms, center-tapped through 1000 ohms to ground ► and each E&M lead terminated in 1500 ohms to ground,◄ if either 120 or 300 volts rms 60 Hz ac is applied:

(i) ac voltages less than ►42.4◄ volts peak;

(ii) dc voltages less than 80 volts; and

(iii) Combined ac and dc voltages ►less than 42.4 volts peak when the absolute value of the dc component is less than 21.2 volts and less than (28.8 + 0.64 × V_{dc}) when the absolute value of the dc component is between 21.2 and 80 volts.◄

under all reasonable applications of earth ground to the protective circuitry. The source shall not be limited to less than 20 amperes continuously, nor to less than 50 amperes for 1 minute, and shall not be interrupted by an overcurrent device permitting less total energy flow than a 20 ampere time delay fuse or breaker.

(4) *Non-Hazardous Voltage Source.* A voltage source is considered a non-hazardous voltage source if it conforms with the requirements of § § 68.302, 68.304, and 68.306(b)(1), with all connections to the source other than primary power connections treated as "telephone connections," and if such source supplies voltages no greater than the following under all modes of operation and of failure:

(i) ac voltages less than ►42.4◄ volts peak;

(ii) dc voltages less than 80 volts; and

(iii) Combined ac and dc voltages ►less than 42.4 volts peak when the absolute value or the dc component is less than 21.2 volts and less than (28.8 + 0.64 XV $_{dc}$) when the absolute value of the dc component is between 21.2 and 80 volts.◄

(c) Hazards from exposed surfaces (to be applied as required by ►§ 68.304(c)).◄

The voltage measurable between ►E&M leads and ground◄ tip and ring, tip and ground, ring and ground, ►tip 1 and ring 1, tip 1 and ground,◄ and ►ring 1 to ground,◄ shall not exceed 70 volts peak for more than 1 second, with tip to ring ►and tip 1 to ring 1◄ each terminated with 1500 ohms, center-tapped through 1000 ohms to ground ►and each E&M lead terminated in 1500 ohms to ground◄ if 120 volts rms 60 Hz ac is applied between conductive exposed surfaces and ground. The source shall not be limited to less than 20 amperes continuously, nor to less than 50 amperes for 1 minute, and shall not be interrupted by an overcurrent device permitting less total energy flow than a 20 ampere time delay fuse or breaker.

►(d) *Ringing sources.* Ringing sources shall meet all of the following restrictions:

(1) The ringing signal shall use only frequencies whose fundamental component is equal to or bleow 70 Hz.

(2) The ringing voltage shall be less than 300 V peak-to-peak and less than 200 V peak-to-ground across a resistive termination of at least 1 megohm.

(3) The ringing voltage shall be interrupted to create quiet intervals of at least one-second (continous) duration each separated by no more than 5 seconds. During the quiet intervals the voltage to ground shall not exceed the voltage limits given in (a)(1)(i) of this section.

(4) As specified below, ringing sources shall be required to a) include a series current—sensitive tripping device in the ring lead which will trip ringing as specified in Figure 68.306(d), and/or b) provide a voltage to ground (monitoring voltage) on the tip or ring conductor with a magnitude of at least 19 volts peak (but may not exceed the voltage limits given in paragraph (a)(1)(i) of this section) whenever the ringing voltage is not present (idle state). Tripping devices and/or monitoring voltages are required dependent upon the current flow through a sepcified resistance connected between the ringing source (R(OPS)) and ground as follows:

(i) If the current through a 500 ohms (and greater) resistor does not exceed 100 mA peak-to-peak, neither a tripping device nor a monitoring voltage are required, or

(ii) If the current through a 1500 ohms (and greater) resistor exceeds 100 mA peak-to-peak, the ringing source shall include a tripping device. If the tripping device meets the operating characteristics as specified in Figure 68/OPS.306(d) with R = 500 ohms (and greater), then no monitoring voltage is required. If, however, the tripping device only meets the given operating characteristics with R = 1500 ohms (and greater), then the ringing source must also include a monitoring voltage as described above, or

(iii) If the current through a 500 ohms (and greater) resistor exceeds 100 mA peak-to-peak but does not exceed this value of current with a 1500 ohms (and greater) termination, the ringing source shall include either a tripping device which meets the operating characteristics as specified in Figure 68.306(d) with R = 500 ohms (and greater), or a monitoring voltage.◄

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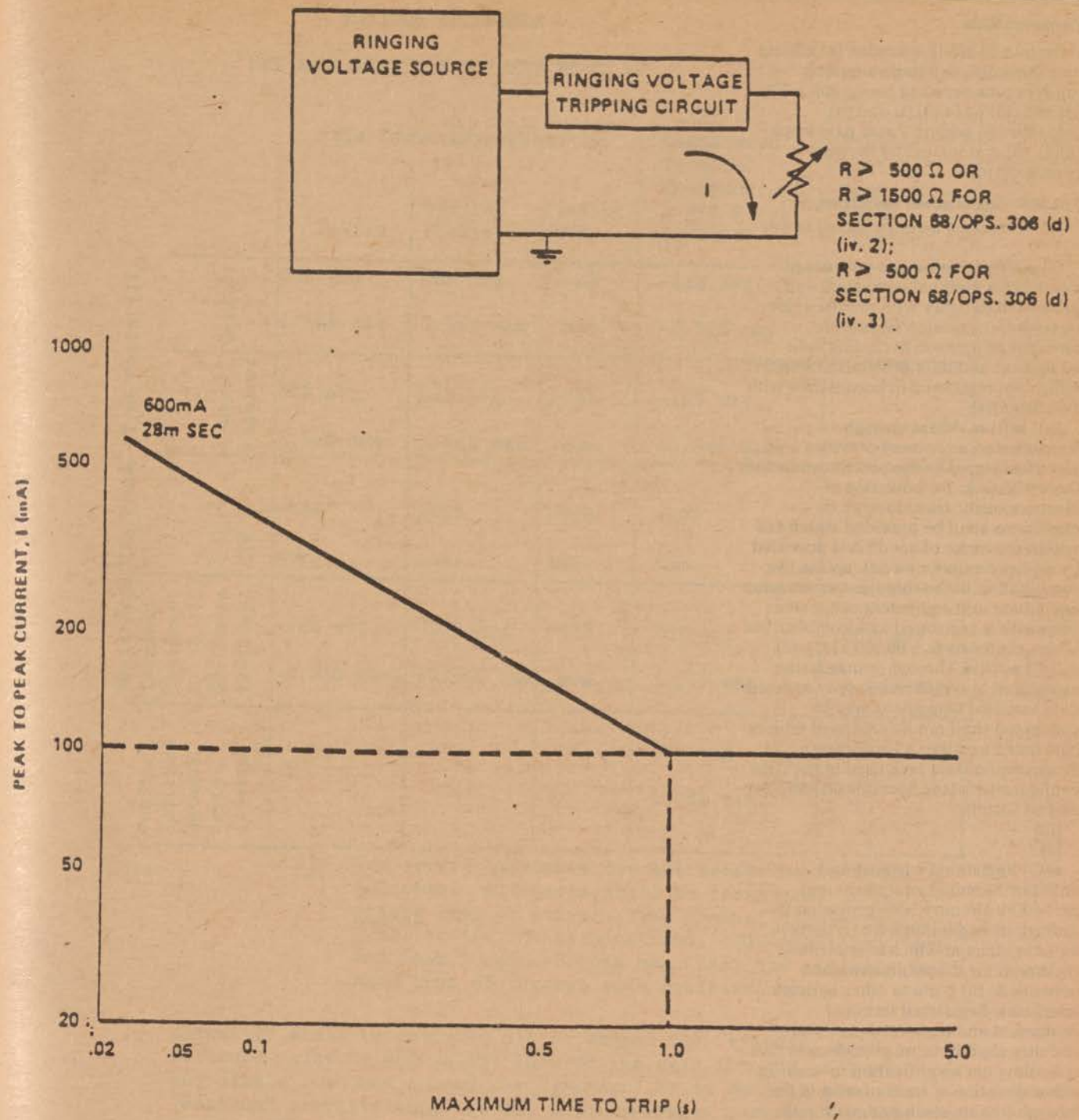

RINGING VOLTAGE TRIP CRITERIA

FIGURE 68.306(d)

BILLING CODE 6712-01-C

Proposed Rule

Section 68.308 is amended by adding new language, deleting paragraph (a)(3)(i), redesignating paragraph (a)(3) (ii) and (iii) as (a)(3) (i) and (ii) respectively, adding a new paragraph (a)(5), (d) and (e) and by revising paragraph (c).

§ 68.308 Signal power limitations.

(a) *Voiceband metallic signal power*

* * *

(3) ►Registered◄ one port ►and multiport◄ terminal equipment and protective circuitry with provision for through transmission from other terminal equipment, excluding data equipment and data protective circuitry which are registered in accordance with § 68.308(a)(4).

[(i)] ►(i)◄ Where through-transmission equipment provides a dc electrical signal to equipment connected therewith (e.g., for powering of electroacoustic transducers), dc conditions shall be provided which fall within the range of conditions provided by a loop simulator circuit, unless the combination of the through-transmission equipment and equipment connected therewith is registered as a combination which conforms to § 68.308(a) (1)–(2).

[(ii)] ►(ii)◄ Through-transmission equipment to which remotely-connected data terminal equipment may be connected shall not be equipped with or connected to either a Universal or Programmed Data Jack used in the data configurations (see Sections 68.308(a)(4) and 68.502(e)).

[iii]

(4) * * *

►(5) Registered one port and multiport terminal equipment and protective circuitry with provision for through transmission from (i) ports to other equipment which is separately registered for the public switched network or (ii) ports to other network interfaces. Registered terminal equipment and registered protective circuitry shall have no adjustments that will allow net amplification to occur in either direction of transmission in the through-transmission path within the frequency range of 200 to 4000 Hertz that will exceed the following:

BILLING CODE 6712-01-M

MAXIMUM ALLOWABLE

NET AMPLIFICATION BETWEEN PORTS (1)

		Tie Trunk Type Ports (3)			Registered Terminal Equipment (2) & OPS Ports (2-Wire)	Public Switched Network Ports (2-Wire)
		2-Wire	4-Wire Lossless	4-Wire CTS		
Registered Tie Trunk Type Ports (3)	2-Wire	0dB avg 1.5dB max	0dB avg 1.5dB max	-4dB nom.	-2dB avg -0.5dB max	-
	4-Wire Lossless	0dB avg 1.5dB max	0dB avg 1.5dB max	-4dB nom.	-2dB avg -0.5dB max	-
	4-Wire CTS	-4dB nom.	-4dB nom.	-8dB nom.	-6dB nom.	-
	Registered Terminal Equipment & (2) OPS Ports (2-Wire)	-2dB avg. -0.5dB max.	-2db avg -0.5dB max	-6dB nom.	0dB avg 1.5dB max	0dB avg 1.5dB max
	Public Switched Network Ports (2-Wire)	-	-	-	0dB avg 1.5dB max.	-

Notes:

(1) The source impedance for all measurements shall be 600 ohms. All ports shall be terminated in appropriate loop or private line channel simulator circuits or 600 ohm terminations. The numerical "avg." and "max." requirements mean that the net gain for each type of through such equipment or

circuitry shall be designed not to exceed the "average" gain for such paths in all units; however the gain for any path of any single unit may exceed the "average" by as much as the "maximum" provided that the net gain, averaged over such paths in all units of production, is no greater than the "average". The term "nom." allows for variations encountered in conventional terminating set losses as defined in 68.3 (t) (iii).

(2) These ports are for 2-wire on-premises station ports to separately registered terminal equipment and off-premises station ports (OPS).

(3) The 4-wire CTS shall meet the requirements defined in Section 68.3(t).

BILLING CODE 6712-01-C

(b) *Signal Power in 3995 to 4005 Hz Frequency Band*

(1) * * *

(2) * * *

(c) *Longitudinal Voltage in the 100 Hertz to 4 kHz Frequency Range.* The weighted root-mean-squared voltage averaged over 100 milliseconds that is the resultant of all the component longitudinal voltages in this band after weighting according to the curve in Figure 68.308(a) shall not exceed the maximum indicated under the conditions stated in subsection (e). The weighting curve in Figure 68.308(a) has an absolute gain of unity at 4 kHz.

Frequency range	Max. RMS voltage	Longitudinal terminating impedance
100 Hz to 4 kHz	−30 dBV	500 Ohms

(d) *Voltage in 4 Kilohertz to 1 Megahertz Frequency Range.* The root-mean-squared voltage as averaged over 100 milliseconds at the telephone connections of registered terminal equipment and registered protective circuitry in all of the possible 8 kilohertz bands within the indicated frequency range and under the conditions specified in section (e), shall not exceed the maximum indicated below.

(1) Metallic Voltage—

Frequency of 8 kHz Band	Max. voltage in all 8 kHz bands	Metallic terminating impedance
4 kHz to 12kHz	−(6.4 + 12.6 log f) dBv.	300 ohms
12 kHz to 90 kHz	(23 − 40 log f) dBv	135 ohms
90 kHz to 1 MHz	−55 DBV	135 ohms

where f = center frequency in kilohertz of each of the possible 8 kilohertz bands beginning at 8 kHz.

dBv = 20 $\log_{10}$ voltage in volts.

(2) Longitudinal Voltage—

Frequency of 8 kHz Band	Max. voltage in all 8 kHz bands	Longitudinal terminating impedance
4 kHz to 12kHz	−(18.4 + 20 log f) dBV.	500 ohms
12 kHz to 60 kHz	(3 − 40 log f) dBV	90 ohms
60 kHz to 90 kHz	−68 DBV	90 ohms
90 kHz to 1 MHz	−62 DBV	90 ohms

(e) *Requirements in Subsections (c) and (d) Apply Under the Following Conditions.* (1) All registered terminal equipment and all registered protective circuitry must comply with the limitations when connected to a termination equivalent to the circuit depicted in Figure 68.308(b) and when placed in all operating states of the equipment except during network control signaling.

(2) All registered terminal equipment and all registered protective circuitry must comply with the limitations in off-hook states over the range of loop currents that would flow with the equipment connected to a loop simulator circuit.

(3) Registered terminal equipment and registered protective circuitry with provision for through transmission from other equipments shall comply with the limitations, with a 1000 Hertz tone applied from a 600 ohm source (or, if appropriate, a source which reflects a 600 ohm impedance across tip and ring) at the maximum level that would be applied during normal operation. Registered protective circuitry for data shall also comply with the tone level 10 dB higher than that expected during normal operation.

(4) Voice terminal equipment containing electroacoustic transducers for live voice input, including recording services, shall comply with the limitations with a 1000 Hertz acoustic signal applied to the electroacoustic transducers that results in a power delivered into the 600 ohm load impedance of −13 dB with respect to one milliwatt.

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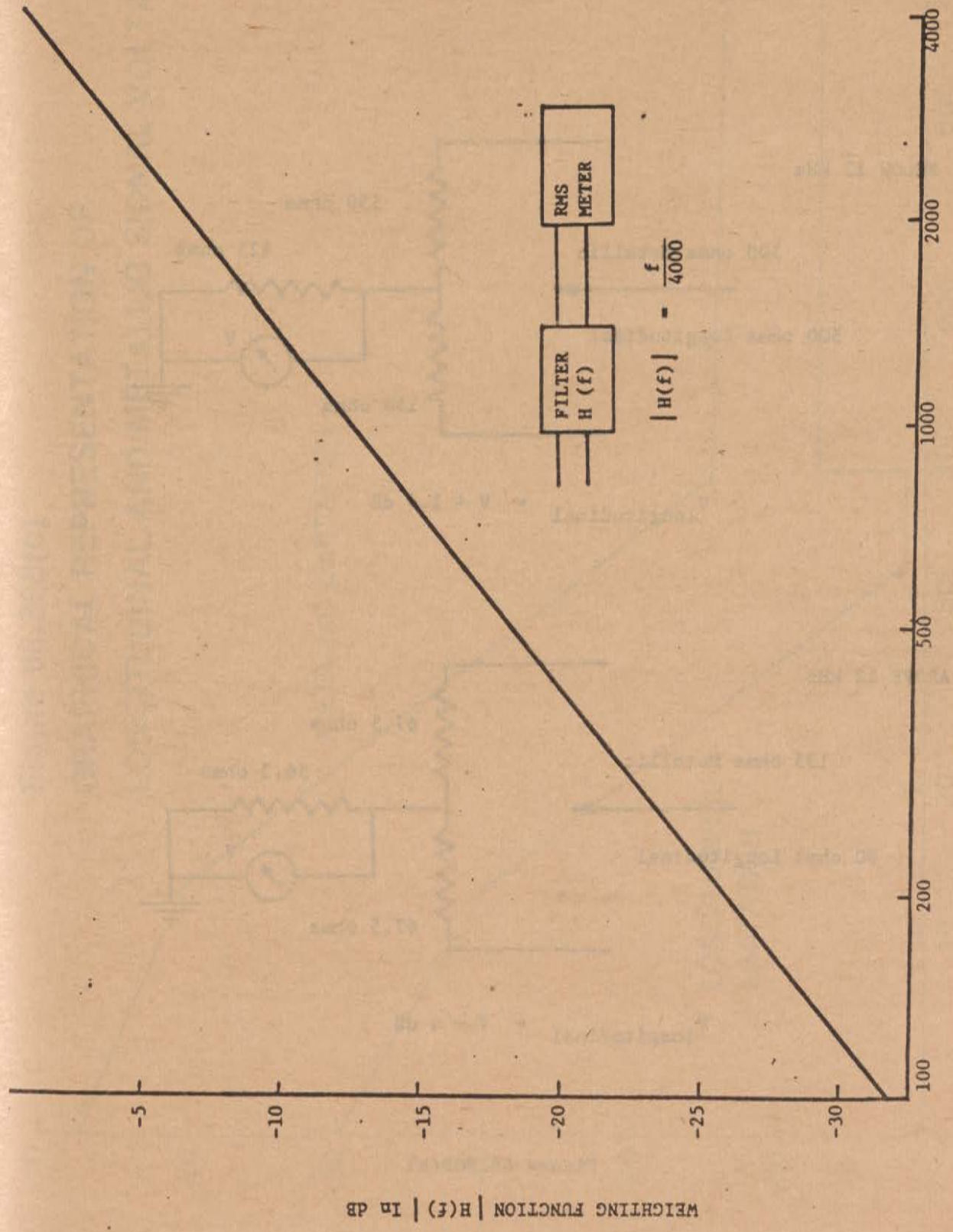
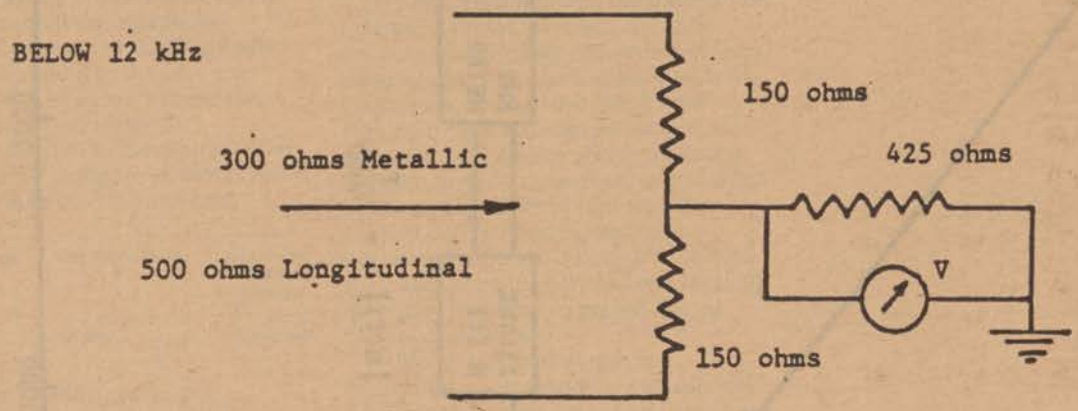


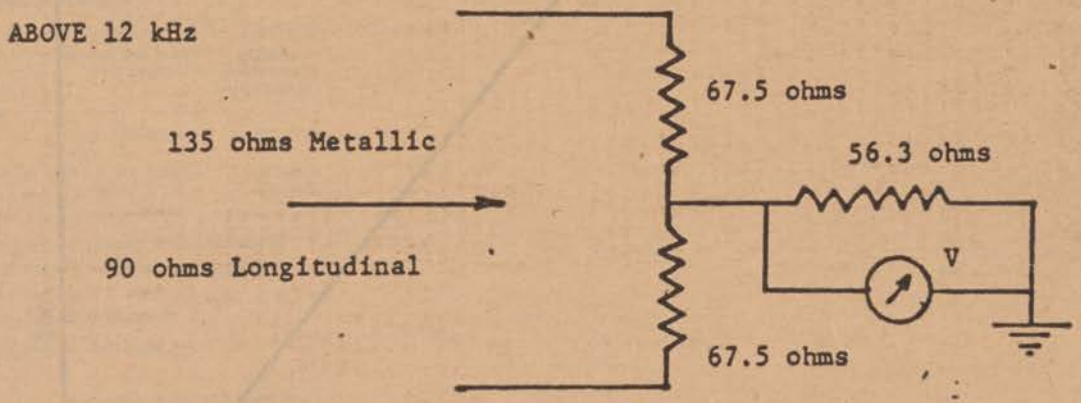
WEIGHTING FUNCTION RESPONSE

Figure 68.308(a)

RESISTIVE TERMINATIONS



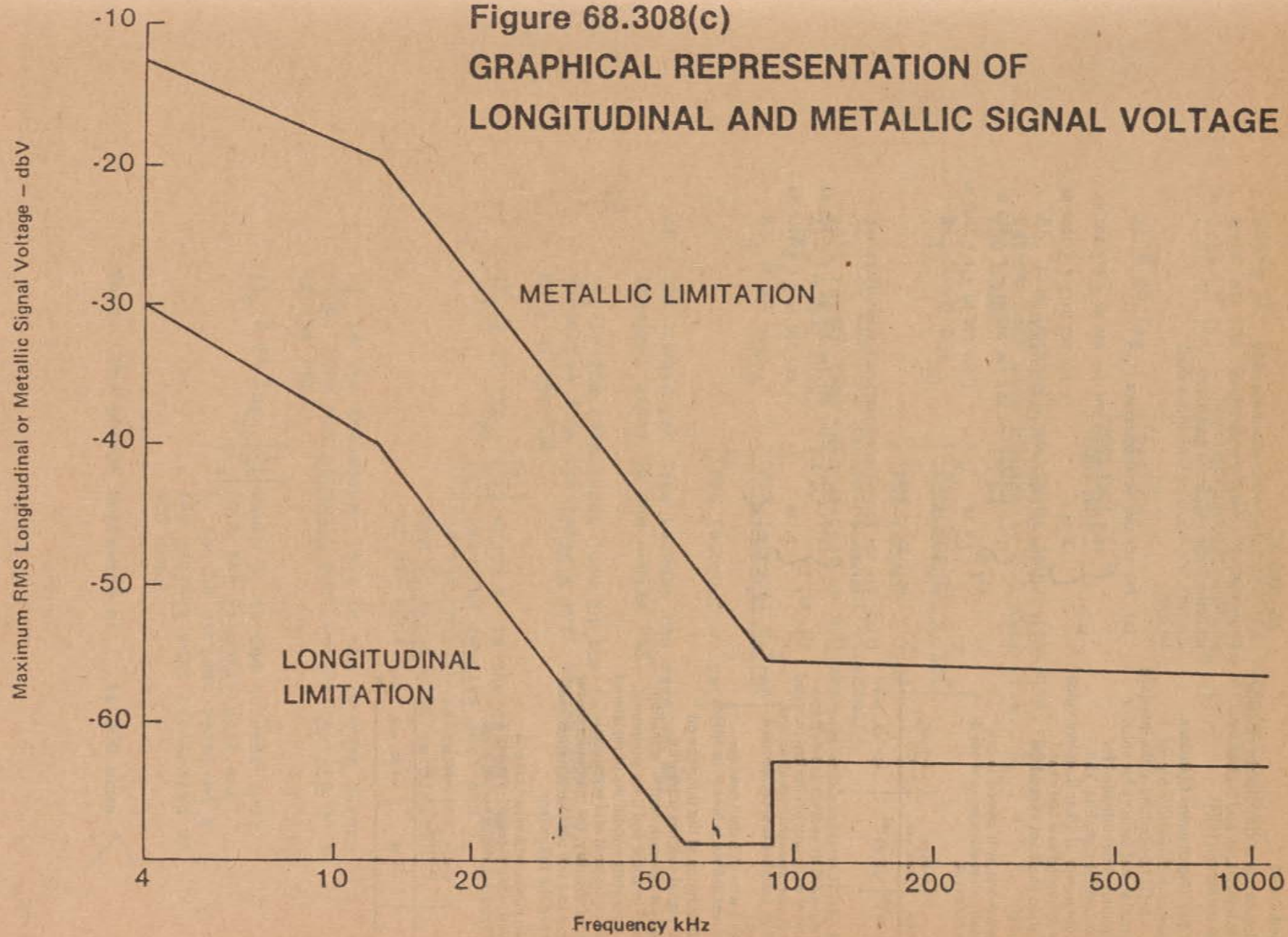
$V_{longitudinal} = V + 1.4$ dB



$V_{longitudinal} = V + 4$ dB

Figure 68.308(b)

Figure 68.308(c)
GRAPHICAL REPRESENTATION OF LONGITUDINAL AND METALLIC SIGNAL VOLTAGE



Maximum Permissible Longitudinal and Metallic Voltage from 4 kHz to 1 MHz

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Proposed Rule 1

Section 68.308 is amended by revising paragraph (a)(1),(2), and (3) and by deleting paragraph (a)(4).

§ 68/TT.308 Signal power limitations.

(a) *Voiceband Metallic Signal Power.*—►(1) Limitations at the interface on internal signal sources for voice or data equipment not intended for network control signaling. The maximum power of other than live voice signals delivered to a 600 ohm termination shall not exceed the following:

Maximum power, with respect to one milliwatt, when averaged over any 3-second interval.

2-Wire	4-wire Lossless	4-wire CTS[b]
-15 dB[a]	-15 dB[a]	-19 dB, nom.

Notes.—(a) The maximum signal power may be exceeded by as much as 1.0 dB by a single unit of equipment or circuitry, provided that the power, averaged over all units of production, complies with the specified limitations.

(b) The 4-wire CTS shall meet the requirements defined in Section 68.3(t)(iii).

(2) Limitations at the interface on internal signal sources primarily intended for network control signaling contained in voice and data equipment. For all operating conditions of registered terminal equipment and registered protective circuitry, the maximum power delivered to a 600 ohm termination shall not exceed the following:

Maximum power, with respect to one milliwatt, when averaged over any 3-second interval, during normal usage.

2-wire	4-wire Lossless	4-wire CTS
-4 dB	-4 dB	-8 dB, nom.

[(3)] (Delete)

(3) Limitations on idle circuit stability parameters. For idle state operating conditions of registered terminal equipment and registered protective circuitry, the following limitations shall be met:

(i) For the two-wire interface

$$RL \geq \begin{cases} (9-3\,\frac{\log(f/200)}{\log 2.5})\ \text{dB}; & \text{for } 200\ \text{Hz} \leq f \leq 500\ \text{Hz} \\ 6\ \text{dB} & ; \text{for } 500\ \text{Hz} \leq f \leq 3200\ \text{Hz} \end{cases}$$

(ii) For the four-wire lossless interface

$$tl_f \geq \begin{cases} (10-4\,\frac{\log(f/200)}{\log 2.5})\ \text{dB}; & \text{for } 200\ \text{Hz} \leq f \leq 500\ \text{Hz} \\ 6\ \text{dB} & ; \text{for } 500\ \text{Hz} \leq f \leq 3200\ \text{Hz} \end{cases}$$

$$tl_r > 40\ \text{dB}$$

$$RL_i,\ RL_o \geq 3\text{dB}$$

(iii) For the four-wire conventional terminating set interface

$$tl_f,\ tl_r \geq \begin{cases} (18-4\,\frac{\log(f/200)}{\log 2.5})\ \text{dB}; & \text{for } 200\ \text{Hz} \leq f \leq 500\ \text{Hz} \\ 14\ \text{dB} & ; \text{for } 500\ \text{Hz} \leq f \leq 3200\ \text{Hz} \end{cases}$$

$$RL_i,\ RL_o \geq 3\text{dB}$$

where RL the return loss of 2-wire terminal equipment at the interface with respect to 600 ohms + 2.16 μF (i.e., Z_{ref} = 600 ohms + 2.16 μF).

$$RL \triangleq 20 \log_{10} \left| \frac{Z_{PBX}+Z_{ref}}{Z_{PBX}-Z_{ref}} \right|$$

RL_i the terminal equipment input (receive) port return loss with respect to 600 ohms (i.e., Z_{ref} = 600 ohms).

$$RL_i \triangleq 20 \log_{10} \left| \frac{Z_{PBX\ (input)} + Z_{ref}}{Z_{PBX\ (input)} - Z_{ref}} \right|$$

RL_o the terminal equipment output (transmit) port return loss with respect to 600 ohms (i.e., Z_{ref} = 600 ohms).

$$RL_o \triangleq 20 \log_{10} \left| \frac{Z_{PBX\ (output)} + Z_{ref}}{Z_{PBX\ (output)} - Z_{ref}} \right|$$

tl - the transducer loss between the receive and transmit ports of the 4-wire PBX.

tl_f is the transducer loss in the forward direction from the receive port to the transmit port of the PBX.

$$tl_f \triangleq 20 \log_{10} \left| \frac{I_i}{I_r} \right|$$

where I_i is the current sent into the receive port and I_r is the current received at the transmit port terminated at 600 ohms.

tl_r is the transducer loss in the reverse direction, from the transmit port to the receive port of the PBX.

$$tl_r \triangleq 20 \log_{10} \left| \frac{I_i}{I_r} \right|$$

where I_i is the current sent into the transmit port and I_r is the current received at the receive port terminated at 600 ohms.

Note: The source impedance of I_i is 600 ohms.

[(4)] [Out-of-band signal power limitations for internal signal sources should be consistent with AT&T proposed revisions dated May 10, 1977, but appropriately revised for no dc current parameters in the loop simulator circuit. In addition, the metallic out-of-band absolute signal power limitations are 2 dB more stringent for the 2-wire and 4-wire loss-less interfaces and 6 dB more stringent for the 4-wire CTS interface.]

* * * * *

Proposed Rule

Section 68.308 is amended by revising paragraph (a) (1) and (2).

§ 68/OPS.308 Signal power limitations.

(a) *Voiceband Metallic Signal Power.*

(1) Limitations at the interface on internal signal sources for voice or data equipment. The maximum power of other than live voice signals delivered to an OPS line simulator circuit shall not exceed −13dB with respect to one milliwatt, when averaged over any 3-second interval.

Note.—The maximum signal power may be exceeded by as much as 1.0 dB by a single unit of equipment or circuitry, provided that the power, average over all units of production, complies with the specified limitaitons.

[(2)] (Delete)

Registered terminal equipment and registered to protective circuitry shall provide the following range of dc conditions to off-premises station (OPS) lines. DC voltages applied to the OPS interface for supervisory purposes and during network control signaling shall meet the limits specified in Section 68/OPS.306. DC voltages applied to the OPS interface during the talking state shall meet the following requirement:

(i) The maximum open circuit voltage across the timp (T(OPS)) and ring (R(OPS)) leads shall not exceed 80 volts, and

(ii) The maximum dc current into a short circuit across the tip (T(OPS)) and ring (R(OPS)) leads shall not exceed 135mA, and

(iii) The dc current into the OPS line simulator circuit with $R_2 = R_x$ * must be at least 20 mA.

(4)

* * * * *

(Out-of-band signal power limitaitons for internal signal sources should be the same as the AT&T proposed revisions dated May 10, 1977, but using the OPS line simulator circuit parameters.)

Proposed Rule

§ 68/AIOD.308 Signal power limitations.

(a) *Voiceband Metallic Signal Power.* Limitations on the internal signal source for transmitting information over an AIOD data channel. The maximum total signal power delivered to an AIOD data channel simulator circuit in each of the following operating states shall not exceed −4 dB with respect to the one milliwatt averaged over any 3-second time interval:

Operating state of simulator circuit	Remote terminal equipment open circuit DC volts to ground on T(AI) and R(AI)
1	−42.5 to −52.5
2	0
3	0

The maximum signal power may exceed −4 dB with respect to one milliwatt by as much as 1.0 dB provided that the power averaged over all units of the equipment complies with the specified maximum.

(b) *Signal Power in the 3995 to 4005 Hertz Frequency Band.*

(1) *Frequency band 3995–4005 Hertz.* Power resulting from internal signaling sources contained in registered protective circuitry and registered terminal equipment intended for transmitting messages over an AIOD data channel. For all operating conditions of registered protective circuitry and registered terminal equipment, the maximum power delivered by the source in the 3995–4005 Hertz band to an AIOD data channel simulator circuit under the dc conditions specified in (a) above shall be −22 dB with respect to one milliwatt.

[delete existing paragraph (b) (ii)]

Proposed Rule

§ 68/MR.308 Signal power limitations.

(a) *Longitudinal Voltage in the 100 Hertz to 4 kHz Frequency Range.* The weighted root-mean-square-voltage* averaged over 100 milliseconds that is the resultant of all the component longitudinal voltages in this band after weighting according to the curve in Figure 68/MR.308(a) shall not exceed the maximum indicated under the condition stated in Subsection (c). The weighting curve in Figure 68/MR.308(a) has an absolute gain of unity at 4 kilohertz.

Frequency Range	Max. RMS Voltage	Longitudinal Terminating impedance
100 Hz to 4 kHz	−30 dBv	500 ohms

(b) *Voltage in the 4 kilohertz to megahertz Frequency Range.* The root-mean-square voltage* as averaged over 100 milliseconds at the telephone connections of registered terminal equipment and registered protective circuitry in all possible 8 kilohertz bands within the indicated frequency range and under the condition specified in Subsection (c), shall not exceed the maximum indicated below.

(1) *Metallic Voltage.*

Frequency of 8kHz band	Max. voltage in all 8kHz bands	Longitudinal terminating impedance
4kHz to 12kHz	−(6.4+12.6 log f) dBv.	300 ohms
12kHz to 90kHz	(23–40 log f) dBv	135 ohms
90kHz to 1MHz	−55 dBv	135 ohms

where f = center frequency in kilohertz of each of the possible kilohertz bands beginning at 8 kHz.

$dBv = 20 \log_{10}$ voltage in volts

(2) *Longitudinal Voltage.*

Frequency of 3kHz band	Max. voltage in all 8kHz bands	Longitudinal terminating impedance
4kHz to 12kHz	−(18.4+20 log f) dBv.	500 ohms.
12kHz to 60kHz	(3–40 log f) dBv	90 ohms.
60kHz to 90kHz	−68 dBv	90 ohms.
90kHz to 1MHz	−62 dBv	90 ohms.

(c) *Requirements in Subsections (a) and (b) Apply Under the Following Conditions.* All registered terminal equipment and registered protective circuitry must comply with the limitations in this Section as follows:

MR signaling mode of operation	Resistive terminations	Limitations
Metallic Return	Fig. 68/MR.308(b)	(a), (b)(1), (b)(2)
Ground Return	Fig. 68/MR.308(c)	(a), (b)(2)

These limitations must be met in all operating states of the equipment and over the range of currents that would flow with the equipment connected to the message register signaling channel simulator circuit. ◄

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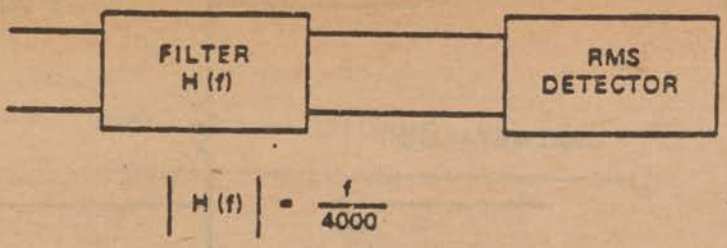
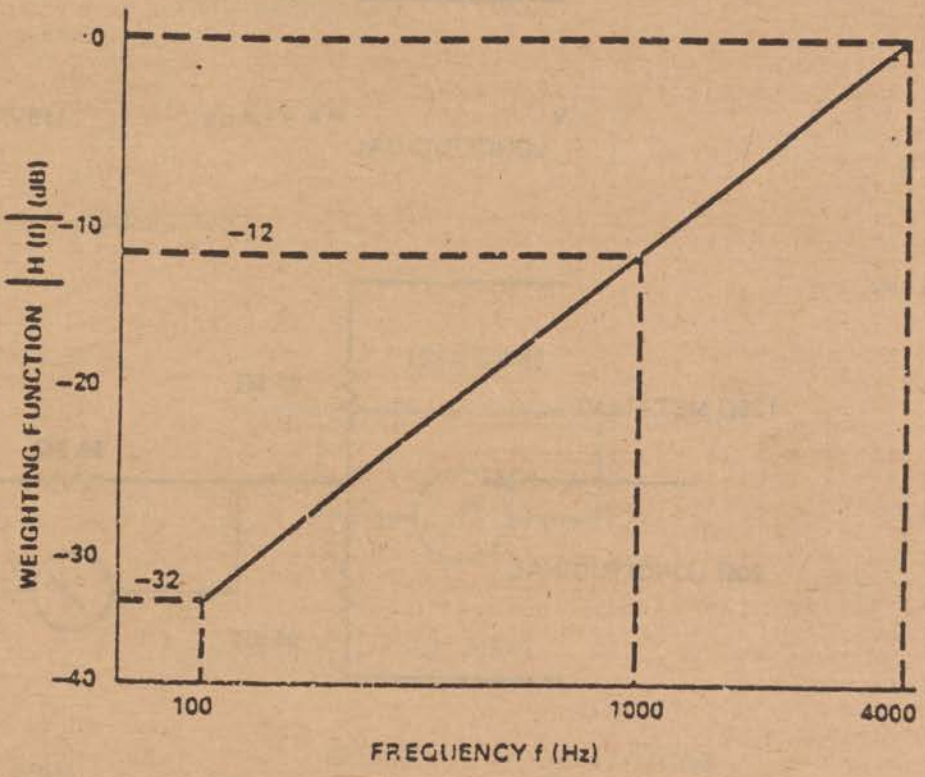


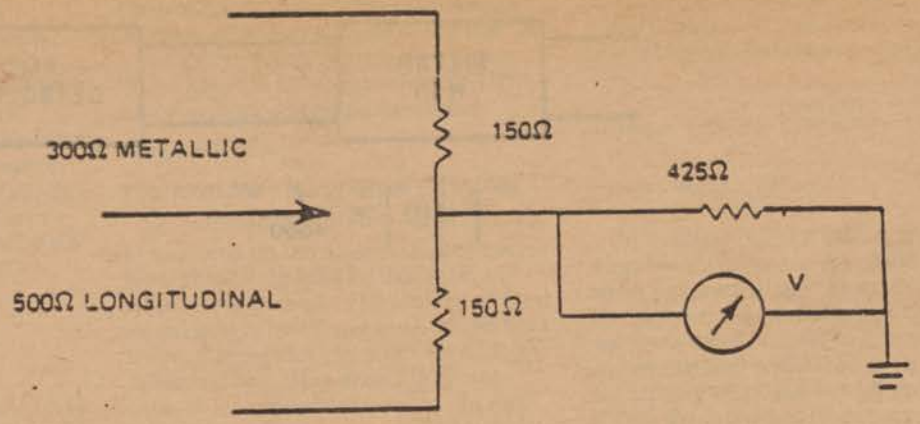
$$\left| H(f) \right| = \frac{f}{4000}$$



WEIGHTING FUNCTION RESPONSE

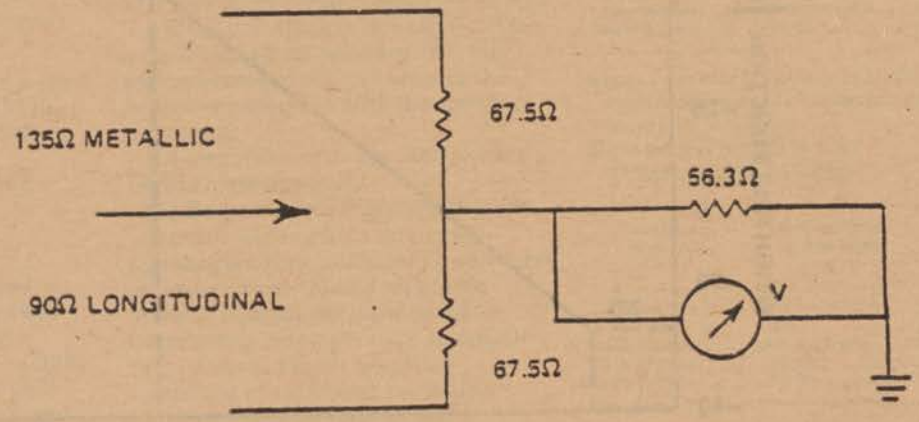
FIGURE 68/MR. 308(a)

BELOW 12 kHz



$V_{LONGITUDINAL} = V + 1.4\ dB$ (dBV)

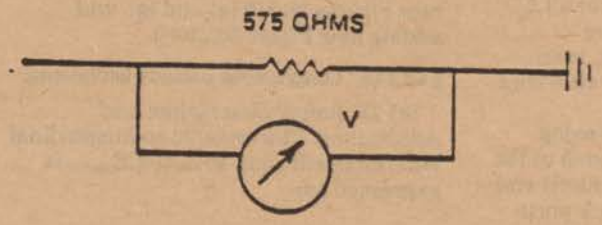
ABOVE 12 kHz



$V_{LONGITUDINAL} = V + 4\ dB$ (dBV)

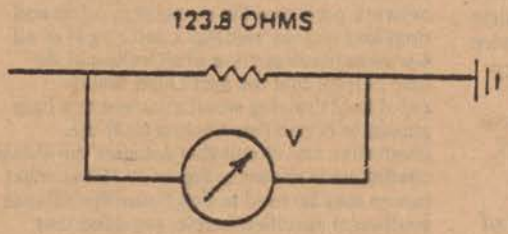
RESISTIVE TERMINATIONS
METALLIC RETURN
(MR SIMULATOR MODE 1)

BELOW 12 KHz



$V_{LONGITUDINAL} = V/2$ (dBV)

ABOVE 12 KHz



$V_{LONGITUDINAL} = V/2$ (dBV)

RESISTIVE TERMINATIONS
GROUND RETURN
(MR SIMULATOR MODE 2)

BILLING CODE 6712-01-C

§ 68.308 Signal power limitations.

Proposed Rule

►(a) *General.* Limits on signal power shall be met at the interface for all 2-wire network ports and, where applicable to offered services, both transmit and receive pairs of all 4-wire network ports. Signal power measurements shall be made using terminations as specified in each of the following limitations. The transmit and receive pairs of 4-wire network ports shall be measured with the pair not under test connected to a termination equivalent to that specified for the pair under test. Through gain limitations apply only in the direction of transmission toward the network.◄

►(b)◄ *Voiceband Metallic Signal Power.* [Use wording in existing Subsection 68.308(a), except paragraph 68.308(a)(3)(i) which should read as follows:]

(i) Registered terminal equipment and registered protective circuitry shall have no adjustments that will allow net amplification to occur in the through transmission path, ►between (a) 2-wire network ports and 2-wire terminal ports and (b) 4-wire network ports and 2-wire terminal ports,◄ within the frequency range of 200 to 4000 Hertz, when measured from a 600-ohm source into a loop simulator circuit. The net gain of such equipment or circuitry shall be designed so as not to exceed 0 dB; however, the gain for any single unit of registered terminal equipment or registered protective circuitry may exceed 0 dB by as much as 1.5 dB provided that the net gain, averaged over all units of production, is no greater than 0 dB.

►(c)◄ *Signal Power in 3995 to 4005 Hz. Frequency Band.* [Use wording in Subsection 68.308(b) of the AT&T proposed revisions dated May 10, 1977.]

►(d)◄ *Longitudinal Voltage in the 100 Hertz to 4 kHz Frequency Range.* [Use wording in Subsection 68.308(c) of the AT&T proposed revisions dated May 10, 1977]

►(e)◄ *Voltage in the 4 kilohertz to 1 megahertz Frequency Range.* [Use wording in Subsection 68.308(d) of the AT&T proposed revisions dated May 10, 1977]

►(f)◄ *Requirements in Subsections (d) and (e) Apply Under the Following Conditions:* [Use wording in Subsection 68.308(e) of the AT&T proposed revisions dated May 10, 1977]

Proposed Rule

Section 68.310 is amended by adding new language to paragraph (a), substituting new paragraph (b), deleting language from paragraphs (g) and (h), adding new paragraph (j), substituting new Figures 68.310 (a) and (g), and adding new Figure 68.310(j).

§ 68.310 Longitudinal balance limitations.

(a) *Technical Description and Application.* The metallic-to-longitudinal balance coefficient, $BALANCE_{m-1}$, is expressed as:

$$BALANCE_{m-1} = 20 \log_{10} \left| \frac{e_M}{e_L} \right|$$

where e_L is the longitudinal voltage produced across a 500-ohm longitudinal termination and e_M is the metallic voltage across the tip-ring ►or tip 1 and ring 1◄ interface of the input port when a voltage (at any frequency $200 < f < 4000$ Hertz) is applied from a balanced 600-ohm metallic source. The source voltage should be set such that $e_M = 0.775$ volts rms (0 dBm) when a 600 ohm termination is substituted for the terminal equipment. The minimum balance coefficient specified in this Section (as appropriate) shall be equalled or exceeded for all ►2-wire network ports and the transmit pair (tip and ring) and receive pair (tip 1 and ring 1) of all 4-wire network ports◄ at all values of dc loop current that the port under test is capable of drawing when attached to a loop simulator circuit (see Section 68.3). An illustrative test circuit that satisfies the above conditions is shown in Figure 68.310(a); other means may be used to determine the balance coefficient specified herein, provided that adequate documentation of the appropriateness, precision, and accuracy of the alternative means is provided by the applicant. The minimum balance requirements specified below shall be equalled or exceeded under all reasonable conditions of the application of earth ground to the equipment or protective circuitry under test:

►**2-Wire Network Ports**

[Use existing table for Subparagraph categories (b) through (h) and add the following requirement to the table]

4-Wire Network Ports

Subparagraph	Equipment state	Minimum balance requirement, dB	Frequency range, Hz
	Both on-hook	60	200–1000
	and off-hook..	40	1000–4000

(b) *Registered PBX equipment (or similar systems) with an off-premises interface.* These criteria shall be satisfied for all off-premises station interface ports when these ports are terminated in their appropriate networks for both their on-hook and off-hook states, and when all other interface connections are terminated in circuits appropriate to that interface. The minimum balance coefficients shall also be satisfied for all values of dc loop current that the registered PBX is capable of providing through off-premises station ports when these ports are attached to the off-premises line simulator circuit specified in these rules. The port under test shall be driven from a 600-ohm metallic source having a 500-ohm longitudinal impedance.◄

(g) *Registered Multi-Port Equipment for Loop-Start Applications.* These criteria shall be satisfied for all ports when the ports are terminated in their appropriate networks [for both their on hook and off hook states], as will be identified below, and when interface connections other than the ports are terminated in circuits appropriate to that interface. The minimum balance coefficients shall also be satisfied for all values of dc loop current that the registered equipment is capable of drawing through each of its ports when these ports are attached to the loop simulator circuit specified in these Rules. The port under test shall be driven from a 600-ohm metallic source having a 500-ohm longitudinal impedance. The termination for all ports other than the particular one whose balance coefficient is being measured shall have a metallic impedance of 600 ohms and a longitudinal impedance of 500 ohms. [In their off hook states, and they shall be unterminated in their on hook states.] Figure 68.310(g) shows this termination.

(h) *Registered Mutli-Port Equipment for Ground Start and Reverse Battery Applications.* These criteria shall be satisfied for all ports when all ports not under test are terminated in their appropriate networks [for both their on hook and off-hook states,] as will be identified below, and when interface connections other than the ports are terminated in circuits appropriate to that interface. The minimum balance coefficients shall be satisfied for all values of dc loop current that the registered equipment is capable of drawing through each of its ports when these ports are attached to the loop simulator circuit specified in these Rules. The port under test shall be driven from a 600-ohm metallic source having a 500-ohm longitudinal impedance. The terminations for all ports other than the particular one whose balance coefficient is being

measured shall have a metallic impedance of 600 ohms and a longitudinal impedance of 500 ohms. [In their off hook states, and they shall be unterminated in their on hook states.] Figure 68.310(g) shows this termination.

* * * * *

►(j) *Registered Terminal Equipment and Registered Protective Circuitry for 4-Wire Network Ports.* The pair under test shall be driven from a 600-ohm metallic source having a 500-ohm longitudinal impedance. The pair not under test shall be terminated in a metallic impedance of 600 ohms and a longitudinal impedance of 500 ohms. Other conditions are as follows:

(1) *Registered Protective Circuitry for Loop Start, Ground Start, and Reverse Battery Applications.* These criteria shall be met with either terminal of the interface to other equipment connected to earth ground. The interface to other equipment shall be terminated in an impedance that will result in 600 ohms at each of the transmit and receive pairs of the 4-wire telephone connection in the off-hook state of the registered protective circuit, and the interface should not be terminated in the on-hook state. Figure 68.310(j) shows the interface of the protective circuitry being tested and the required arrangement at the interface to other equipment.

(2) *Registered Multi-Port Equipment for Loop-Start, Ground-Start, and Reverse Battery Applications.* These criteria shall be satisfied for all network ports when the ports are terminated as defined below, and when interface connections other than the network ports are terminated in circuits appropriate to that interface. The criteria shall also be satisfied for all values of dc loop current that the registered equipment is capable of drawing through each port when the port is connected to the appropriate 4-wire loop simulator circuit, Figure 68.3(c) or 68.3(d). The terminations for both pairs of all network ports not under test shall have a metallic impedance of 600 ohms and a longitudinal impedance of 500 ohms. Figure 68.310(g) shows this termination.◄

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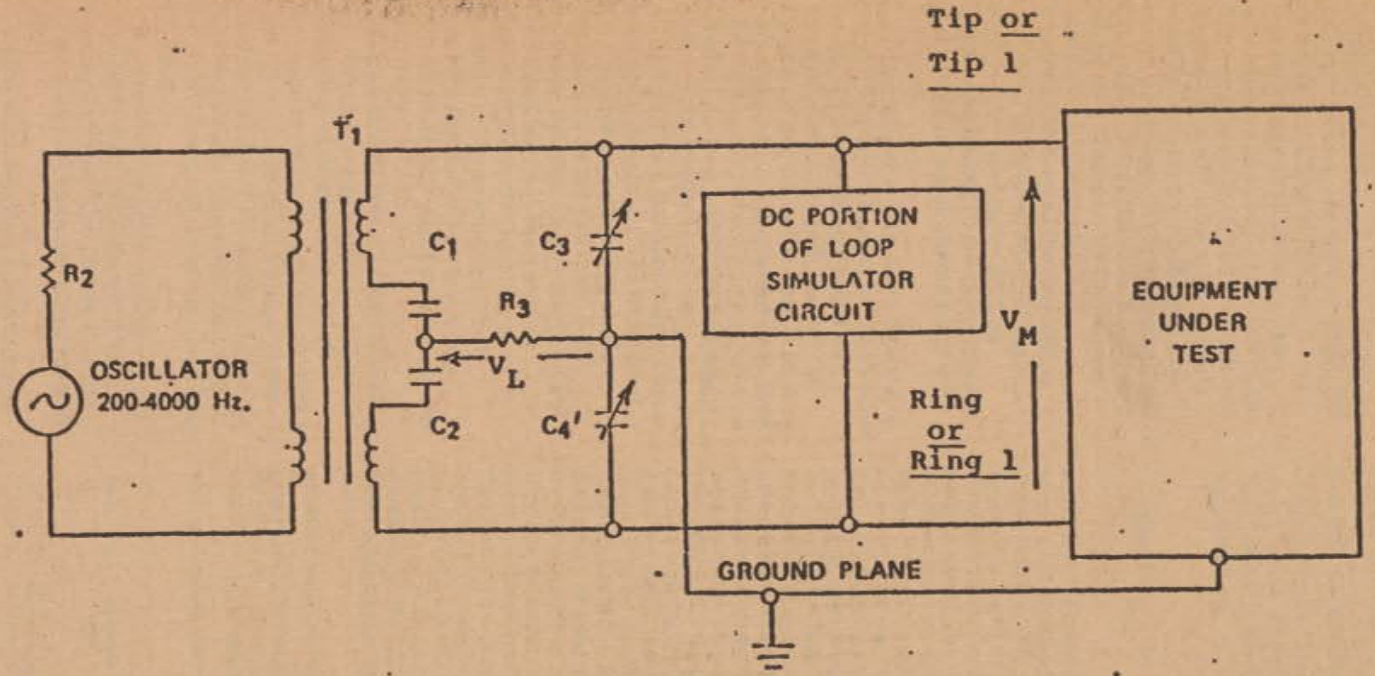


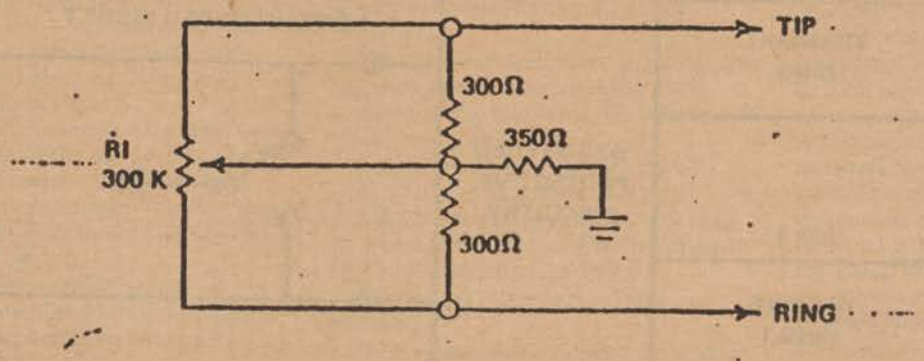
T_1 – W.E.Co. #111C or 119E, or A.D.C. #118F, or equivalent.
C_1, C_2 – 8 microfarad, 400 WVDC, matched to within 0.1%.
C_3, C_4 – 100 to 500 picofarad adjustable trimmer capacitors.
Osc. – Audio oscillator with source resistance, $R_1 \leq 600$ ohms.
R_2 – Selected such that $R_1 + R_2 = 600$ ohms.
R_3 – 500 ohms.

NOTES:

1. V_M should not be measured at the same time as V_L.
2. Use trimmer capacitors C_3 and C_4 to balance the test circuit to 20 dB greater balance than the equipment standard for all frequencies specified, with a 600 ohm resistor substituted for the equipment under test.
3. Exposed conductive surfaces on the exterior of the equipment under test should be connected to the ground plane for this test.

Figure 68.310(a) - Illustrative test circuit complying with Section 68.310(a)

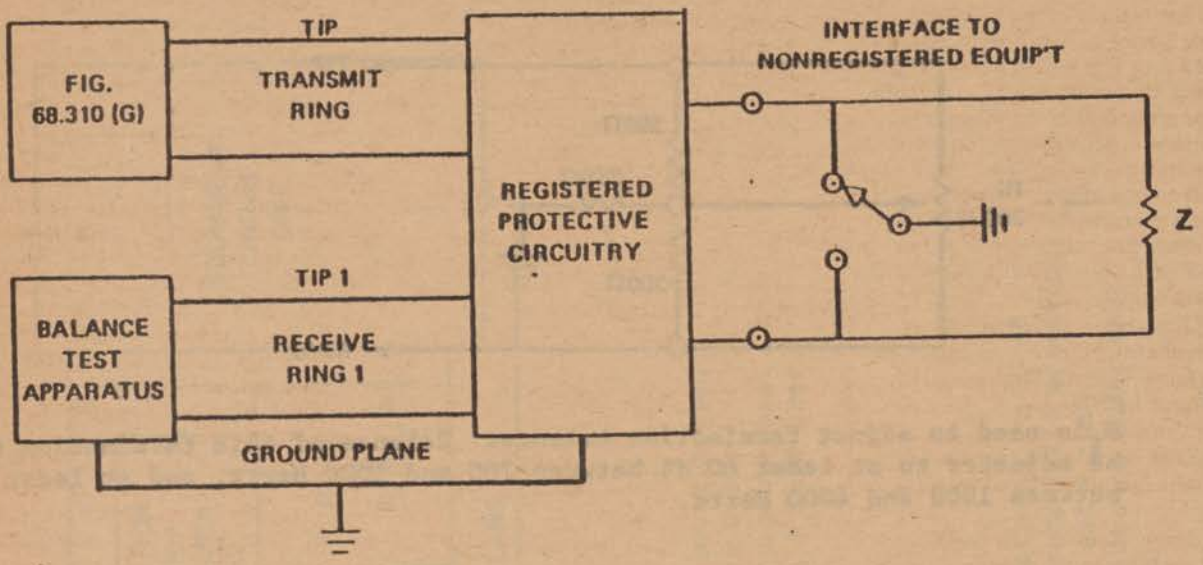
OFF-HOOK TERMINATION OF 2-WIRE MULTI-PORT EQUIPMENT FOR PORTS NOT UNDER TESTS AND THE TRANSMIT OR RECEIVE PAIR OF ALL 4-WIRE EQUIPMENT:



R_1 is used to adjust termination balance. Balance of this termination shall be adjusted to at least 60 dB between 200 and 1000 Hertz, and at least 40 dB between 1000 and 4000 Hertz.

FIGURE 68.310(g)

REQUIRED TERMINATION FOR CONNECTIONS TO NONREGISTERED EQUIPMENT:



NOTE:

– Z – SELECTED SO THAT THE REFLECTED IMPEDANCE AT TIP 1 AND RING 1 IS 600 OHMS.

– CONFIGURATION SHOWN IS FOR MEASUREMENT OF RECEIVE PAIR. (NEW)

FIGURE 68.310 (j)
4-WIRE

BILLING CODE 6712-01-C

§ 68.312 On-hook impedance limitations.

Section 68.312 is amended by adding new language.

►(a) *General.*

The limitations in this section that involve 2-wire network ports apply to tip, and ring. For 4-wire network ports (tip, ring, tip 1, and ring 1) with loop-start or ground-start signaling, the limitations apply when tip and ring conductors are connected together and treated as one of the conductors of a tip and ring pair and the tip 1 and ring 1 conductors are connected together and treated as the other conductor of a tip and ring pair.◄

(b) Limitations on individual equipment intended for operation on loop-start telephone facilities: [Use wording in 68.312(a)].

(c) Limitations on individual equipment intended for ground-start telephone facilities: [Used wording in 68.312(b)].

(d) *Ringer Equivalence Definition.* [Used wording in 68.312(c)].

(e) Registered terminal equipment and registered protective circuitry shall have at least one ringer equivalence number shown on the registration label. [Used wording in 68.312(d)].

(f) All registered terminal equipment and registered protective circuitry which can affect on-hook impedance shall be assigned a Ringer Equivalence. [Used wording in 68.312(e)].

(g) *Ringing Type Z Equipment.* [Used wording in 68.312(f)].

Proposed Rule

§ 68/OPS.312 On-hook impedance limitations.

►(a) Limitations on PBX equipment with an off-premises interface and direct inward dialing (DID).

PBX ringing supplies whose output appears on the off-premises interface leads shall not trip when connected to the following tip-to-ring impedance which terminates the off-premises station loop: a terminating impedance composed of the parallel combination of a 15k ohms resistor and a RC series circuit (resistor and capacitor) whose ac impedance is as specified in the table below.

Ringing frequency, Hz	ac impedance ohms
20±3	7000/N
3±3	5000/N
15.3 to 68.0	8000/N

N—Number of ringer equivalnces, as specified by the manufacturer, which can be connected to off-premises station loop.◄

* * * * *

Proposed Rule

§ 68/MR.312 On-hook impedance limitations.

(a) *Limitations on individual equipment intended for operation ►with message register signaling channels.◄*

(1) Registered terminal equipment and registered protection circuitry shall conform to the following limitations ►in all operating states:◄

►(i)◄ The dc resistance between each of the tip ►(MR)◄ and ring ►(MR)◄ conductors and ground shall be greater than 30 kilohms for voltages up to and including 200 volts.

[Delete all other parts of this section]

Section 68.314 is amended by adding new language.

§ 68/TT.314 Billing protection.

(a) *Call duration requirements on data equipment.* * * *

(1) *Registered Protective Circurity.* * * *

►(i) Signals that appear at the protective ciruitry-telephone network interface for delivery to the telephone network shall be limited to −55 dB with respect to one milliwatt as such signals are delivered into a 600 ohm termination.◄

* * * * *

(b) *Voice and data equipment on-hook signal requirements.* Registered protective circuitry and registered terminal equipment shall comply with the following:

(1) The power delivered into a ►600 ohm termination◄ in the on-hook state shall not exceed −55 dB with respect to one milliwatt within the frequency band from 200 to 4000 Hertz. Registered protective circuitry shall also assure that for any input level up to 10 dB above the maximum level that is expected under normal operation, the power delivered to ►a 600 ohm termination◄ does not exceed the above limits.

[(e)] Voice and data equipment loop current requirements.

►(c)◄ *Signaling interference.* Registered terminal equipment and registered protective circuitry shall not deliver signals into a ►600 ohm termination◄ equipment or circuitry, with energy in the 2450 to 2750 Hertz band unless an at least equal amount of energy is present in the 800 to 2450 Hertz band.

§ 68/AIOD.314 Billing protection.

►(a) *Operating Requirements for Automatic Identified Outward Dialing.*

(1) *General.* Registered terminal equipment that provides Automatic Identified Outward Dialing (AIOD) features shall meet the operating requirements specified for such equipment in the Electronics Industries Association (EIA) standard covering "AIOD Interface Requirements".

(2) *Station Number Assignment.* Station number assignments in registered terminal equipment with AIOD capabilities, including spare numbers for subsequent activities by the customer, must be programmed into the equipment by a qualified installer only and such numbers must be restricted to the group of station numbers provided by the telephone company. If the registered terminal equipment is arranged so that the customer can reassign and/or activate new station numbers, means shall be provided so that the customer can verify that the 4-digit number assigned to a station set, incoming tie trunk, or the attendant for AIOD purposes is the same as the number identified by the registered terminal equipment for AIOD when an outgoing call to a central office is originated.

§ 68.314 Billing protection.

(a) *Call duration requirements on data equipment.*

* * * * *

(b) Voice and data equipment on-hook signal requirements. Registered protective circuitry and registered terminal equipment shall comply with the following:

(1) The power delivered into a ► 2-wire ◄ loop simulator circuit ► or into the transmit and receive pairs of a 4-wire loop simulator circuit, ◄ in the on-hook state, by loop-start or ground-start equipment shall not exceed −55dB with respect to one milliwatt within the frequency band from 200 to 4000 Hertz. Registered protective circuitry shall also assure that for any input level up to 10dB above the maximm level that is expected under normal operation, the power to a 2-wire loop simulator circuit ► or the transmit and receive pairs of a 4-wire loop simulator circuit ◄ does not exceed the above limits.

(2) The power delivered into a ► 2-wire ◄ loop simulator circuit ► or into the transmit and receive pairs of a 4-wire loop simulator circuit, ◄ in the onhook state, by reverse battery equipment shall not exceed −55 dB with respect to one milliwatt, unless the equipment is arranged to inhibit incoming signals.

(c) Voice and data equipment loop current requirements. The loop current through registered terminal equipment

or registered protective circuitry, when connected to a ► 2-wire or 4-wire ◄ loop simulator circuit with the 600 ohm resistor and 500 microfarad capacitor ► of the 2-wire loop simulator circuit or both pairs of the 4-wire loop simulator circuit ◄ disconnected shall, for at least 5 seconds after the equipment goes to the normal off-hook state which would occur in response to ringing (called party condition) shall:

(1) Be at least as great as the current obtained in the same loop simulator circuit with a 200 ohm resistance connected across ► the ◄ tip and ring ► of the 2-wire loop simulator circuit or connected across the tip/ring and tip 1/ring 1 conductors (tip and ring connected together and tip 1 and ring 1 connected together) of the 4-wire loop simulator circuit ◄ in the place of the registered terminal equipment or registered protective circuitry; or

(2) Not decrease by more than 25 percent from its maximum value attained during this 5-second interval; unless the equipment is returned to the on-hook state during the above 5 second interval.

(d) Signaling interference. Registered terminal equipment and registered protective circuitry shall not deliver signals into a ► 2-wire ◄ loop simulator circuit ► or the transmit and receive pairs of a 4-wire loop simulator circuit. ◄ from sources internal to the registered equipment or circuitry, with energy in the 2450 to 2750 Hertz band unless at least an equal amount of energy is present in the 800 to 2450 Hertz band.

§ 68.502 [Amended]

RM-3334 Proposal by Communication Certification Laboratory for a New Private Line Interface Jack Specification (4-wire and "E and M"):

Change Section 68.502(d) by adding subsection (5) as follows:

(5) ► Up to 8 bridged 4-wire T/R; E and M signalling: 50 position jack.◄

Electrical network connection: Multiple 4-wire line circuits with E and M signalling leads.

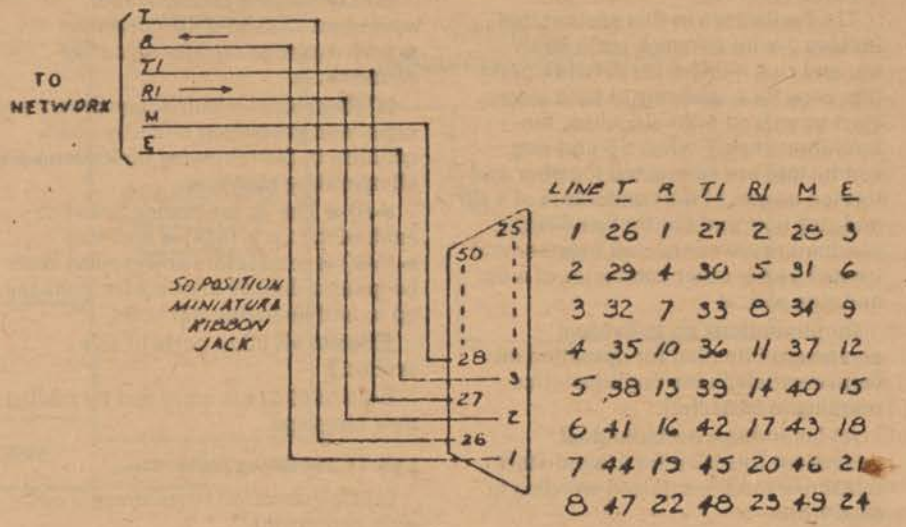
Universal Service Order Code (USOC): RJ26X

Mechanical arrangement: 50 position miniature ribbon jack.

Typical usage: Tie trunk, interface for PBX Terminal System. Up to 8 trunk circuits can be interconnected.

Wiring diagram:

Note.—At the time the jack is ordered, the customer must specify the sequence in which the central office lines are to be connected to the jack. The telephone company will consecutively wire these lines to the jack as shown below without skipping any positions.



LINE	T	R	T1	R1	M	E
1	26	1	27	2	28	3
2	29	4	30	5	31	6
3	32	7	33	8	34	9
4	35	10	36	11	37	12
5	38	13	39	14	40	15
6	41	16	42	17	43	18
7	44	19	45	20	46	21
8	47	22	48	23	49	24

[FR Doc. 79-20488 Filed 7-17-79; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. MC-128]

Revenue Need Standards in Motor Carrier General Increase Proceedings; Correction

Decided: July 12, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Correction to Notice of Proposed Rulemaking.

SUMMARY: In the Notice of Proposed Rulemaking the date for filing statements of intent to participate was omitted. That date is extended until July 23, 1979.

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 the Notice of Proposed Rulemaking served June 25, 1979, and published in Volume 44, page 38609 of the **Federal Register**, July 2 1979, the date for submitting statements of intent to participate was omitted. In a notice served June 26, 1979, that date was specified as July 11, 1979. Since this date was not published in the **Federal Register** the date for submitting statements of intent to participate is extended until July 23, 1979. A complete procedural schedule will be published at a later date.

H. G. Homme, Jr.

Secretary.

[FR Doc. 79- 22181 Filed 7-17-79; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Parts 13 and 17]

Proposed Changes to the Special Rule Concerning the American Alligator

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposal would allow the limited commercial import or export of lawfully taken American alligator hides and manufactured products from those hides in accordance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The sale of meat and other parts from lawfully taken American alligators would be allowed in the State where the taking occurred, if those activities are authorized by State law. Foreign buyers, tanners, and fabricators would be required to obtain a permit to engage in their respective activities. Foreign applicants would also be subject to more stringent application requirements. Special conditions imposed upon permits issued under the special rule have been added. American alligators classified under § 17.11 as "in captivity wherever found" would be included within the coverage of the special rule. Finally, the exception provided for taking American alligators in self-defense has been deleted, in favor of the more liberal defense found in the Act.

DATES: Comments are due on or before August 17, 1979.

ADDRESS: Submit comments to Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036, and refer to the file number REG 17–02–82. All material received will be available for inspection during normal business hours at the Service's Office Office in Suite 300, 1375 K Street, N.W., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Marshall L. Stinnett, Special Agent in Charge, Regulations and Penalties, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036, 202–343–9242, or Mr. Harold J. O'Connor, Acting Associate Director-Federal Assistance, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202–343–4646.

SUPPLEMENTARY INFORMATION:

Background

On October 2, 1978 (43 FR 45513), the U.S. Fish and Wildlife Service published proposed changes to the special rule pertaining to the American alligator, *Alligator mississippiensis*, found at 50 CFR 17.42(a). Briefly, the Service proposed to amend the special rule (1) to simplify application procedures for those persons seeking buyer's tanner's, or fabricator's permits, (2) to allow the sale of meat from lawfully taken alligators in the State where the taking occurs, and (3) to limit the applicability to American alligators of general permits pertaining to threatened wildlife issued under 50 CFR 17.32. The Service would have allowed the import and export of American alligators only if those activities were consistent with the Convention on International Trade in Endangered Species of Wild Fauna or Flora (hereinafter referred to as the Convention or by the acronym CITES).

On May 9, 1979 (44 FR 27190), the Service published a reopening of the comment period and a notice of public hearings on the proposal. The Service also announced that it would propose regulations (1) establishing a permit procedure under the special rule for action relating to the species (i.e., American alligator), including its exportation and importation, (2) modifying the determination (i.e., definition) of "American alligator" within the special rule to include American alligators in captivity, and (3) requiring foreign buyers, tanners, and fabricators to obtain a permit to engage in their respective activities with hides of American alligators to insure control over trade in the species.

Since the initial proposed rulemaking serveral changes have affected the domestic and international protection provided to the American alligator. Domestically, the population in nine parishes in Louisiana was reclassified from threatened to threatened-similarity of appearance, thereby increasing the number of parishes in which American alligators may be lawfully taken under controlled harvest (June 25, 1979, 44 FR 37130). Internationally, the American alligator's status under CITES was changed from Appendix I to Appendix II effective June 28, 1979 (44 FR 25480, May 1, 1979), thereby providing the opportunity for American alligators to be commercially traded, subject to the review and approval (for exports) of both the U.S. Management Authority and the U.S. Endangered Species Scientific Authority.

Permits

A description of the permits available under the special rule and the activities for which they may be issued will provide the basis for an explanation of this proposal. Three permits would be available in relation to American alligators.

1. *General permit—threatened species.* Permits would be available under § 17.32 in relation to American alligators for the purposes for which permits may be issued under that section, which are: scientific purposes, or the enhancement of propagation of survival; economic hardship; zoological exhibition; educational purposes; or special purposes consistent with the purposes of the Act.

2. *Buyer, tanner, or fabricator.* Permits would also be issued under the authority of the special rule itself, as provided by section 4(d) of the Act (16 U.S.C. 1533(d)). These would authorize buyers, tanners, and fabricators to engage in any of the prohibited activities in the process of manufacturing finished products from lawfully taken American alligators, including alligators taken under Florida's nuisance control program. Application requirements, issuance criteria, and special conditions are found within the rule.

These permits provide a highly regulated framework whereby the activities of permit holders are closely monitored. A new special condition imposed on these permits states explicitly what formerly has been the practice. The Service has created a "closed system" wherein permittees may only engage in business with other permittees until a manufactured product is marked. While not foolproof, a number of controls are placed on permittees so that only lawfully taken American alligators enter the system, and only products from those alligators leave it. Hides tagged by the State where the taking occurred may only be sold or transferred to persons holding valid Federal permits to buy hides. No untagged hides may be lawfully sold or transferred. Once so tagged these hides retain the tags through the tanning process. Finally, products from those hides are marked by the fabricator with a label provided by the Service. Fabricators will be required to accurately document the relationship between the hides received and the finished products created from them.

Additionally, permittees must maintain complete and accurate records of dealings in the hides of reptiles of the Order Crocodilia. This would include those species most likely to be commingled with American alligators: other alligators, crocodiles, caimans, and gavials.

This system would be implemented without requiring the tanner to apply a mark on the underside of the hide in indelible ink as previously proposed (October 2, 1978, 43 FR 45513). Instead the Service will rely on the engraved label which the fabricator will attach. These labels are difficult to duplicate and are unusable if an attempt is made to remove them from lawful products and place them on unlawful ones. The indelible mark on the underside of the skin presented a number of problems. That mark is easy to duplicate, not

readily seen on products which are lined with other leather, and may be shaved off in the process of fabricating finished goods.

Applications will be accepted from foreign buyers, tanners, or fabricators who wish to engage in these activities. Expanding the domestic "closed system" worldwide has several advantages. As a condition of the permit, § 13.47 allows the Service to conduct reasonable inspections of the permittee's business premises for any evidence of the commingling of illegally taken American alligator hides with legal ones. So long as the permit holder abides by the conditions of the permit, access to a reliable source of legal American alligator hides is possible. However, if the conditions of the permit are violated, the permittee is subject to the sanctions of the Act, including permit revocation. To insure jurisdiction over foreign permit holders, they would be required to appoint an agent for the service of process and to identify any property held in the United States. Appointment of an agent will enable the Service to impose civil penalties under the Act and to revoke a permit, when it is necessary, thereby removing the permittee from lawful trade in American alligators.

Export and import of the hides and manufactured products of lawfully taken American alligators would not be prohibited if conducted in accordance with CITES, as long as the hides bear the tag attached by the State where the taking occurred or the manufactured products have the mark attached which was provided by the Service and affixed by the fabricator, at the time of export or import. When the Service's mark is affixed to manufactured products, only CITES documentation would be necessary. Tagged hides, however, would still have to move within the "closed system."

On May 31, 1979 (44 FR 31584), the U.S. Endangered Species Scientific Authority (hereinafter referred to as ESSA) published proposed findings on the commercial export of American alligators taken during the 1979 harvest season under Article II 2(b) of CITES. ESSA proposed to find that the export of certain American alligator hides would not be detrimental to the survival of other species of crocodilians, subject to the conditions that: (1) Foreign buyers, tanners, and fabricators must obtain permits similar to those currently in force within the United States (50 CFR 17.42(a)). Permittees must provide access to their records and may sell to other buyers, tanners, or fabricators only if they hold Federal permits. Fabricators must permanently mark all products to indicate that they are American alligator. (2) Exports must only be allowed to buyers, tanners, or fabricators holding valid Federal permits who are located in countries which have ratified CITES and which have not taken reservations for any crocodilians. (3) Prior to export, all hides must be indelibly marked over their entire reverse surface with identifying symbols.

The Department of the Interior, as U.S. Management Authority, is now proposing to include foreign buyers, tanners, or fabricators within the "closed system," but has not presently proposed, as already discussed, the requirement that hides be indelibly marked prior to export, nor to restrict export to CITES Party countries without reservations for crocodilians.

The U.S. Management Authority suggests the following resolution to the Article II 2(b) "no detriment" finding required to be made. A rebuttable presumption that "no detriment" exists could be applied to the activities of buyers, tanners, or fabricators in CITES Party countries without reservations for crocodilians. In those countries, trade in crocodilians would be restricted by CITES. However, this presumption could be rebutted by evidence which indicated that buyers, tanners, or fabricators were taking actions which would preclude the continuation of a "no detriment" finding. For buyers, tanners, and fabricators in non-party countries or in party countries with reservations for crocodilians, ESSA could review individual buyers, tanners, and fabricator applications submitted to the Management Authority, together with any permit conditions proposed by the Management Authority, or could in consultation with the Management Authority make a general finding with any appropriate general conditions applicable to all buyers, tanners, or fabricators. Any appropriate general conditions necessary to satisfy an ESSA no detriment finding would be fulfilled by the Management Authority through specific conditions incorporated into the permit. A review of the permittee's compliance with these conditions could be conducted at any appropriate interval. ESSA could reopen its "no detriment" finding at any time evidence is available to indicate that reconsideration of its current finding should be undertaken. Export permits issued under Article IV of CITES would no longer be available for export to a permittee when a "no detriment" finding cannot be sustained for that permittee and the permit to buy, tan, or fabricate may be revoked.

3. *Similarity of appearance.* Previously, American alligators found in captivity were not covered by the special rule. As a result permits were issued under § 17.52 authorizing the permittee to engage in any of the acts prohibited by § 17.42(a). Under this proposal, American alligators bred in captivity which are tagged by the State where the taking occurred may be sold or otherwise transferred to holders of valid buyer's permits without the prior grant of a permit under § 17.52. However, those specimens which do not meet the definition of bred in captivity, but which are held in captivity, would only be eligible for permits under § 17.32.

The definitions of "in captivity" and "bred in captivity" are those adopted by CITES at the Second Meeting of the Conference of the Parties.

Miscellaneous

The self-defense exception formerly found in paragraph (a)(1)(i)(A) has been deleted. The Endangered Species Act Amendments of 1978 liberalized the circumstances under which the defense can be raised under the Act, 16 U.S.C. 1540. The Service plans to propose revised self-defense regulations applicable to all endangered and threatened wildlife in the near future.

Finally, the sale of meat and other parts from lawfully taken American alligators would be allowed in the State where the taking occurred, if this activity is permitted by the State. One such State is Louisiana, which also regulates the sale of meat through licensing and recordkeeping requirements.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited.

Final promulgation of the special rule on the American alligator will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from these proposals.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Division of Law Enforcement, 1375 K Street, N.W., Washington, D.C. 20005

and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of these proposed rules is Mr. John T. Webb, Paralegal Specialist, Division of Law Enforcement, 202–343–9242.

Regulations Promulgation

Accordingly, it is hereby proposed to amend subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 13—GENERAL PERMIT PROVISIONS

§ 13.12 [Amended]

1. Amend § 13.12(b) by inserting the phrase "American alligator—buyer, tanner, or fabricator.....17.42" after "Captive, self-sustaining populations (wildlife only).....17.33" and before "Marine mammal permits."

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

2. Amend § 17.11(i) to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(i) * * *

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Alligator, American.	*Alligator mississippiensis* ..	Wherever found in the wild, except in those areas where it is listed as Threatened, as set forth below.	Southeastern United States.....	Entire.....	E	11	N/A
Alligator, American.	*Alligator mississippiensis* ..	In the wild in FL and in certain areas of GA, LA (except in those parishes listed as T(S/A)), SC and TX, as set forth in Sec. 17.42(a)(1).	U.S. (FL and certain areas of GA, LA (except in those parishes listed as T(S/A)), SC and TX.	Entire.....	T	20	17.42(a)
Alligator, American.	*Alligator mississippiensis* ..	In the wild in Cameron, Vermillion, Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, and Plaquemines Parishes in LA.	U.S. (Cameron, Vermillion, Calcasieu, Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, and Plaquemines Parishes in LA).	N/A.....	T(S/A)	11	17.42(a)
Alligator, American.	*Alligator mississippiensis* ..	In captivity wherever found.....	Worldwide	N/A.....	T(S/A)	11	17.42(a)

3. Revise § 17.42(a) to read as follows:

§ 17.42 Special rules—Reptiles.

(a) *American alligator (Alligator mississippiensis).* (1) *Definitions.* For the purposes of this paragraph (a):

"American alligator" shall mean any member of the species, and any part, offspring, dead body, part of a dead body or product of such species *(Alligator mississippiensis)* occurring in captivity wherever found or in the wild in Iberia, St. Mary, St. Charles, Terrebonne, Lafourche, St. Bernard, Jefferson, St. Tammany, Plaquemines, Cameron, Vermillion, and Calcasieu Parishes, Louisiana, and in the wild in Florida and in certain coastal areas of Georgia, Louisiana, South Carolina, and Texas, contained within the following boundaries:

From Winyah Bay near Georgetown, South Carolina, west on U.S. Highway 17 to Georgetown; thence west and south on U.S. Alternate Highway 17 to junction with U.S. Interstate Highway 95 near Walterboro, South Carolina; thence south on U.S. Interstate Highway 95 (including incomplete portions) to junction with U.S. Highway 82; thence southwest on U.S. Highway 82 to junction with U.S. Highway 84 at Waycross, Georgia; thence west on U.S. Highway 84 to the Alabama-Georgia border; thence south along this border to the Florida border and following the Florida border west and south to its termination at the Gulf of Mexico.

From the Mississippi-Louisiana border at the Gulf of Mexico north along this border to its junction with U.S. Interstate Highway 12; thence west on U.S. Interstate Highway 12 (including incomplete portions) to Baton Rouge, Louisiana; thence north and west along corporate limits of Baton Rouge to U.S. Highway 190; thence west on U.S. Highway 190 to junction with Louisiana State Highway 12 at Ragley, Louisiana; thence west on Louisiana State Highway 12 to the Beauregard-Calcasieu Parish border; thence north and west along this border to the Texas-Louisiana State border; thence south on this border to Texas State Highway 12; thence west on Texas State Highway 12 to Vidor, Texas; thence west on U.S. Highway 90 to the Houston, Texas, corporate limits; thence north, west and south along Houston corporate limits to junction on the west with U.S. Highway 59; thence south and west on U.S. Highway 59 to Victoria, Texas; thence south on U.S. Highway 77 to corporate limits of Corpus Christi, Texas; thence southeast along the southern Corpus Christi corporate limits to Laguna Madre; thence south along the west shore of Laguna Madre to the Nueces-Kleberg county line; thence east along the Nueces-Kleberg county line to the Gulf of Mexico.

"Bred in Captivity" shall mean the progeny of American alligators born in captivity of parents that mated in captivity. The parental breeding stock must be (1) established in a manner not detrimental to the survival of the species in the wild, (2) maintained without augmentation from the wild except for the occasional addition of animals or eggs from wild populations to prevent deleterious inbreeding with the magnitude of such addition determined by the need for new genetic material and not by other factors, and (3) managed in a manner designed to maintain the breeding stock indefinitely. A parental breeding stock shall be considered to be managed in a manner designed to maintain it indefinitely only if it is managed in a manner that has been demonstrated to be capable of reliably producing second-generation offspring in captivity.

"Buyer" shall mean a person engaged in the business of buying hides of

American alligators for the purpose of resale.

"Fabricator" shall mean a person engaged in the business of manufacturing products from American alligator leather.

"In captivity" shall mean held in a controlled environment that is intensively manipulated by man for the purpose of producing American alligators, and that has boundaries designed to prevent them from entering or leaving the controlled environment. General characteristics of captivity may include but are not limited to artificial housing, waste removal, health care, protection from predators, and artificially supplied food.

"Tanner" shall mean a person engaged in the business of processing green, untanned hides of American alligators into leather.

(2) *Prohibitions.* Except as provided by permits available under paragraph (a)(3), the following prohibitions apply to the American alligator.

(i) *Taking.* Except as provided in this paragraph (a)(2)(i) no person may take American alligators.

(A) Any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, take American alligators without a permit if such action is necessary to:

(*1*) Aid a sick, injured or orphaned specimen;

(*2*) Dispose of a dead specimen;

(*3*) Salvage a dead specimen which may be useful for scientific study; or

(*4*) Remove a specimen which constitutes a demonstrable but non-immediate threat to human safety. The taking must be done in a humane manner, and may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(B) Any taking pursuant to paragraph (a)(2)(i)(A) must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

(C) Any employee or agent of the Service or of a State conservation agency which is operating under a cooperative agreement which covers American alligators with the Service, in accordance with section 6(c) of the Act, who is designated by the agency for such purposes, may, when acting in the course of official duties, take American alligators to carry out scientific research or conservation programs.

(D) Any person may take Amercian alligators in Cameron, Vermillion, Calcasieu, Iberia, St. Mary, Terrebonne, St. Bernard, St. Tammany, Lafourche, St. Charles, Plaquemines, and Jefferson Parishes in accordance with the laws and regulations of the State of Louisiana provided the following requirements are met:

(*1*) The hides of such alligators are only sold, offered for sale, or otherwise transferred to persons holding a valid Federal permit to buy hides, issued under paragraph (a)(3); and

(*2*) The meat and other parts are sold only in the State of Louisiana, and only in accordance with the laws and regulations of that State.

(E) When American alligators are taken by Federal or State officials in accordance with paragraphs (a)(2)(i)(A) or (a)(2)(i)(C) the hids may be sold by their respective agencies to any person holding a valid Federal permit to buy hides, issued under paragraph (a)(3), provided the following requirements are met:

(*1*) The hides have been tagged by the State of origin with a noncorrodible numbered tag inserted no more than 6 inches from the tip of the tail;

(*2*) The tag number, length of belly skin, and date and place of the specimen's taking are recorded by the State;

(*3*) A tag or label is affixed to the outside of any package used to ship the hides, identifying its contents as American alligator hides, indicating their quantity and tag numbers, and providing the name and address of the consignor and consignee; and

(*4*) The meat and other other parts are only sold in the State where the taking occurs, and only in accordance with the laws and regulations of that State.

(F) Any person may take American alligators in captivity wherever found, provided the following requirements are met:

(*1*) The American alligators have been bred in captivity;

(*2*) The hides have been tagged by the State where held in captivity with a noncorrodible numbered tag inserted no more than 6 inches from the tip of the tail;

(*3*) The tag number, length of belly skin, and date and place of the specimen's taking are recorded by the State;

(*4*) The hides of such alligators are only sold, offered for sale, or otherwise transferred to persons holding a valid Federal permit to buy hides, issued under paragraph (a)(3);

(*5*) A tag or label is affixed to the outside of any package used to ship the hides, identifying its contents as American alligator hides, indicating their quantity and tag numbers, and providing the name and address of the consignor and consignee; and

(*6*) The meat and other parts are only sold in the State where the taking occurs, and only in accordance with the laws and regulations of that State.

(ii) *Unlawfully taken alligators.* No person may possess, sell, deliver, carry, transport, or ship, by any means whatsoever, American alligators taken unlawfully.

(iii) *Import or export.* No person may import or export any American alligator, except that hides and manufactured products of lawfully taken American alligators may be imported or exported in accordance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (see 50 CFR Part 23 for rules implementing the Convention), provided that such hides bear the noncorrodible numbered tag attached by the State where the taking occurred and such manufactured products have the mark attached which was provided by the Service and affixed by the fabricator, as required by paragraph (a)(3), at the time of import or export.

(iv) *Commercial transactions.* No person may deliver, receive, carry, transport, ship, sell, or offer to sell in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any American alligator, except that manufactured products of American alligators which have been marked in accordance with paragraph (a)(3)(iii)(C)(8) by a fabricator holding a valid Federal permit may be transported, shipped, delivered, carried or received in interstate or foreign commerce in the course of a commercial activity, and may be sold or offered for sale in interstate or foreign commerce.

(3) *Permits.* (i) *General.* Permits are available under § 17.32 (General permits-threatened wildlife) for all of the prohibited activities referred to in paragraph (a)(2). All the terms and provisions of § 17.32 shall apply to such permits.

(ii) *Similarity of appearance.* Permits are not available under § 17.52 (Similarity of appearance) for any of the prohibited activities referred to in paragraph (a)(2).

(iii) *Buyer, tanner, or fabricator.* Upon receipt of a complete application, the Director may issue a permit in accordance with the issuance criteria of

this paragraph (a)(3)(iii) for a buyer, tanner, or fabricator, authorizing the permittee to engage in any of the prohibited activities referred to in paragraph (a)(2).

(A) *Application requirements.* Applications for permits under this paragraph (a)(3)(iii) must be submitted to the Director by the person who wishes to engage in the activities of a buyer, tanner, or fabricator. Each application must be submitted on an official application form (Form 3–200) provided by the Service, and must include, as an attachment, all of the following information:

(*1*) The category or categories (buyer and/or tanner and/or fabricator) for which the permit is desired;

(*2*) A description of the applicant's business organization, including: a description of the physical plant; the method of operation of the business; experience, if any, over the previous five years; all shareholders, partners, directors, officers or other parties in interest in the business organization;

(*3*) A description, including samples, of the applicant's present or proposed system of inventory control and bookkeeping capable of insuring accurate accounting for all American alligator hides and tags dealt with by the applicant;

(*4*) A statement detailing any convictions or civil penalties under State, Federal, or foreign laws, for taking or trafficking in wildlife within the previous five years for the applicant, or any shareholder, partner, director, officer, principal, employee, or agent;

(*5*) Foreign applicants must disclose the nature and location of all property in the United States in which the applicant has an interest; and

(*6*) Foreign applicants must provde the name and address of an agent located in the United States who is authorized to receive service of process for the applicant.

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iii)(A) the Director will decide whether or not a buyer, tanner, or fabricator permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the applicant's reliability and apparent ability and willingness to maintain accurate inventory and bookkeeping records of all American alligator hides and State tags dealt with by the applicant.

(C) *Special conditions.* In addition to the general conditions set forth in Part 13 of the subchapter, permits issued under paragraph (a)(3)(iii) shall be subject to the following special conditions;

(*1*) Permittees may not buy, tan, or fabricate any American alligator hide except one which was taken, sold, offered for sale, delivered, carried, transported, or shipped in accordance with paragraph (a)(2)(i);

(*2*) A buyer must leave all tags on the hides and all shipping tags or labels on the shipping packages as required by paragraph (a)(2)(i)(E)(3) and (a)(2)(i)(F)(5) unless the shipments are broken apart, in which case the shipping tags or labels must be removed, recorded, and returned to the issuer;

(*3*) If a buyer has broken apart original shipments he must affix a shipping tag or label to the outside of each new package of hides, showing the name and address of the consignor and consignee, identifying the contents of the shipment as American alligator hides, and showing the tag numbers of the hides in the shipment;

(*4*) A tanner must leave all tags on the hides;

(*5*) A fabricator must remove, record, and return to the issuer all tags on the hides;

(*6*) Every permittee must maintain complete and accurate records of all American alligator hides, including the numbers of all State tags; and must maintain complete and accurate records of dealings with hides of the Order Crocodilia;

(*7*) Fabricators shall in addition maintain complete and accurate records showing the relationship of American alligator hides processed to finished American alligator products;

(*8*) Fabricators must affix, under the supervision of the Service, a mark provided by the Service to each product made of American alligator hides; and

(*9*) Permittees may only sell, offer for sale, deliver, carry, transport, or ship American alligator hides to holders of valid Federal permits which authorize the buying, tanning, or fabricating of American alligator hides.

* * * * *

Note.—The Department has determined that this rule is not a significant rule and does not require preparaton of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: July 13, 1979.

Michael J. Spears,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 79–22208 Filed 7–17–79; 8:45 am]

BILLING CODE 4310–55–M

DEPARMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 410]

Extension of Comment Period on Proposed Fish and Wildlife Coordination Rules

AGENCY: National Oceanic and Atmospheric Administration, Commerce, and Fish and Wildlife Service, Interior.

ACTION: Extension of public comment period.

SUMMARY: This notice extends the period for submitting public comment on proposed rules which were published on May 18, 1979 (44 FR 29300). The proposed rules would establish uniform procedures for Federal agency compliance with the Fish and Wildlife Coordination Act. As a result of comments already received, this extension was determined necessary to allow the public more time to prepare comments.

DATES: The deadline for written comments is extended from July 17 to August 17, 1979.

ADDRESS: Comments should be addressed to the Associate Director (AE), Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Thomas J. Bond, Fish and Wildlife Service, Division of Ecological Services, Washington, D.C. 20240. (703) 235–2520, who is also the primary author of this document.

Dated: July 12, 1979.

Michael J. Spear,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79–22113 Filed 7–17–79; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 44, No. 139
Wednesday, July 18, 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

Forest Service

Forest Land and Resource Management Plan, San Juan National Forest Colorado; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement on a Land and Resource Management Plan for the San Juan National Forest. This Forest Plan will be developed in accordance with Section 6 of the National Forest Management Act of 1976 and regulations issued pursuant to the Act.

The San Juan National Forest is located in Archuleta, Conejos, Dolores, Hinsdale, La Plata, Mineral, Montezuma, Rio Grande, San Juan and San Miguel Counties, Colorado. The Forest Supervisor has administrative authority over approximately 1,867,757 acres of National Forest System lands.

The Forest Plan will provide management direction for these National Forest System lands and will replace the existing Forest and District Multiple Use Plans and Timber Management Plan.

Preliminary public issues have been identified through analysis of the comments received on previous planning efforts initiated by the Forest. These issues focus on dispersed and developed recreation, wilderness management, water quantity and quality, access to National Forest land, maintenance of roads and trails, impact of mineral operations, conflicts between various resource uses, protection of scenic quality and cultural resources, reforestation and the supply of wood products.

Alternatives will consider different ways of managing the Forest's resources within the scope of the Regional Plan. Alternatives will address public issues, management concerns and the Forest's resource use and development opportunities.

The Forest is beginning to gather and organize data and information for the planning effort as well as develop procedures for analyzing, evaluating, and updating planning information. A brochure explaining preliminary issues will be prepared and mailed to interested individuals, organizations and local, State, and Federal agencies. Media releases will be prepared when the brochure is available indicating requesting public participation in finalizing issues and throughout the planning process. A number of open house meetings will be announced.

The Draft Environmental Impact Statement is tentatively scheduled for filing by October 1980. A 90-day period for public review and comments will follow. The Final Environmental Impact Statement is tentatively scheduled for filing with the Environmental Protection Agency in June 1981 with implementation of the Forest Plan to begin in July 1981. These dates are subject to change based on the requirements of the National Forest Management Act regulations, when finalized.

Craig W. Rupp, Regional Forester, Rocky Mountain Region, is the responsible official. Daniel K. Chisholm, San Juan National Forest, Durango, Colorado, will lead the interdisciplinary team in preparing the Forest Land and Resource Management Plan and Environmental Impact Statement. For further information on the Forest Plan, contact P. C. Sweetland, Forest Supervisor, San Juan National Forest, 701 Camino Del Rio, Room 200, Durango, Colorado 81301, Phone (303) 247-4874.

Dated: July 9, 1979.

W. H. McCrum,

Acting Regional Forester.

[FR Doc. 79-22061 Filed 7-17-79; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Intent To Formulate General Plan for Public Participation

The Soil Conservation Service (SCS) intends to revise its general plan for public participation. This general plan is a policy statement that describes the basic approach to public participation. As it is being revised, the general plan will be available for public review and comment.

At this time the public is invited to provide comments on present public participation activities as they are being conducted by SCS and to suggest changes that may be made. Comments and suggestions will be considered as the general plan is formulated. Send them to Victor H. Barry, Jr., Deputy Administrator for Programs and Office of Public Participation, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013 before October 30, 1979.

No administrative action implementing the general plan will be taken before December 30, 1979.

Dated: July 6, 1979.

Victor H. Barry, Jr.,

Deputy Administrator for Programs and Office of Public Participation, Soil Conservation Service.

[FR Doc. 79-22063 Filed 7-17-79; 8:45 am]

BILLING CODE 3410-16-M

Holliday Creek Watershed, Mississippi; Intent To Not Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines, (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the construction of five floodwater retarding structures and remaining land treatment measures in Holliday Creek Watershed, Jefferson Davis and Marion Counties, Mississippi.

The environmental assessment of this federally assisted action indicates this projecter will not cause significant local, regional, or national impacts to the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns the construction of five (5) floodwater retarding structures and installation of remaining land treatment measures. Floodwater

retarding structures will be of the drop inlet type and will consist of earthen embankments, concrete principal spillways with draw-down capability for fish and wildlife, and vegetated earth emergency spillways.

The project will result in the conversion of approximately 300 acres of forest land and 126 acres of open land, including 100 acres of prime farmland, to dams, emergency spillways, and sediment pools of the five floodwater retarding structures. In addition, 856 acres of forest land and 151 acres of open land, including 186 acres of prime farmland, will be situated in the combined flood pools of these structures.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, 210 South Lamar Street, Room 500, Milner Building, P.O. Box 610, Jackson, Mississippi 39205. Telephone 601–969–4335. 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 are available to fill single copy requests at the above address.

No administrative action or implementation of the proposal will be taken until 30 days after the date of the publication in the **Federal Register.**

Dated: July 10, 1979.

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

[FR Doc. 79–22062 Filed 7–17–79; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Docket 33683]

Altair Airlines, Inc., Fitness Investigation; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on August 16, 1979, at 9:30 a.m. (local time) in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before August 1, 1979.

Dated at Washington, D.C., July 13, 1979.

Elias C. Rodriguez,

Administrative Law Judge.

[FR Doc. 79–22167 Filed 7–17–79; 8:45 am]

BILLING CODE 6320–01–M

[Order 79–7–63; Dockets 36114, 36115]

American Samoa Show-Cause Proceeding and South Pacific Island Airways Fitness Investigation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79–7–63, (*American Samoa Show-Cause Proceeding*, Docket 36114, and *South Pacific Island Airways Fitness Investigation*, Docket 36115).

SUMMARY: The Board is issuing Order 79–7–63 to show cause why it should not make final its tentative findings with respect to improved air service to American Samoa. Specifically, the Board tentatively finds that it is consistent with the public convenience and necessity to grant the authority requested by South Pacific (Docket 33139), Hawaiian (Docket 34228), Aeroamerica (Docket 34408) and any other fit, willing and able applicants whose fitness can be established by officially noticeable data. Hawaiian is found fit, willing and able; a determination of Aeroamerica's fitness is deferred pending resolution of that issue in formal cases; and a hearing is instituted on the issue of South Pacific's fitness. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file and serve upon all persons listed below, no later than August 16, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDITIONAL DATA: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than August 1, 1979.

EVIDENCE REQUEST: Comments on the evidence request directed at South Pacific are due on August 1, 1979.[1]

ADDRESSES: Objections or Additional Data should be filed in Docket 36114, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments on the evidence request concerning South Pacific should be filed in Docket 36115.

FOR FURTHER INFORMATION CONTACT. Ava Kleinman, Bureau of Domestic, Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428 (202) 673–5842.

SUPPLEMENTARY INFORMATION: Objections should be served upon South Pacific Island Airways, Hawaiian Airlines, Aeroamerica, The Government of American Samoa, Pan American World Airways, Continental Air Lines, and Trans International Airlines, and the FAA.

The complete text of Order 79–7–63 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79–7–63 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: July 12, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79–22167 Filed 7–17–79; 8:45 am]

BILLING CODE 6320–01–M

[Cause 79–7–68]

Denver-El Paso Show-Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79–7–68).

SUMMARY: The Board is proposing to grant Denver-El Paso nonstop authority to Frontier Airlines and any other fit, willing and able applicant, the fitness of which can be established by officially noticeable material. The complete text of this order is available as noted below.

DATES: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by August 15, 1979, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings shall be served upon all parties listed below.

[1] See 44 FR 33136, June 8, 1979, for an example of our standard evidence request.

ADDRESSES: Objections to issuance of a final order should be filed in the Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 36118, which we have entitled the *Denver-El Paso Show-Cause Proceeding.*

In addition, copies of such filings should be served on Frontier Airlines, Continental Air Lines, the Mayors of Denver and El Paso, the Director of Aviation of Stapleton International Airport, the Manager of El Paso International Airport, the Texas Aeronautics Commission and the Aviation Department of the Colorado Public Utilities Commission.

FOR FURTHER INFORMATION CONTACT: Philip J. Reinke, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673–5105.

SUPPLEMENTARY INFORMATION: The complete text of Order 79–7–68 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79–7–68 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: July 12, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-22166 Filed 7-17-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket 34803]

Empire Airlines Fitness Investigation; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on August 15, 1979, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue N.W., Washington, D.C., before the undersigned administrative law judge.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before August 1, 1979.

Dated at Washington, D.C., July 13, 1979.

Elias C. Rodriguez,

Administrative Law Judge.

[FR Doc. 79-22168 Filed 7-17-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-7-67]

Nonstop Authority to Air Lines

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79–7–67.

SUMMARY: The Board is proposing to grant Denver-Omaha/Des Moines and Omaha-Des Moines nonstop authority to Continental Air Lines, Ozark Air Lines and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than August 15, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than July 31, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 36117, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Richard E. Clusman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C., 20428, (202) 673–5216.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: Ozark Air Lines, Continental Air Lines and the Omaha Airport authority.

The complete text of Order 79–7–67 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79–7–67 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: July 12, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-22165 Filed 7-17-79; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Indiana Advisory Committee; Meeting Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a press conference of the Indiana Advisory Committee (SAC) of the Commission originally scheduled for July 30, 1979 has been changed, (FR Doc. 79–21203 on page 40369).

The meeting now will be held on July 23, 1979, beginning at 10:00 am and will end at 12:00 noon, at Old Fort Y. M. C. A., 2201 Reed Street, Fort Wayne, Indiana 46803.

Dated at Washington, D.C., July 12, 1979.

John I. Binkley,

Advisory Committee Management Office.

[FR Doc. 79-22213 Filed 7-17-79; 8:45 am]

BILLING CODE 6335-01-M

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 10:00 am and will end at 3:00 pm, on August 8, 1979, at the Midwestern Regional Office, 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 for the Employment Subcommittee to develop plans for educational project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 13, 1979.

John I. Binkley,

Advisory Committee Management Officer.

FR Doc. 79-22216 Filed 7-17-79; 8:45 am]

BILLING CODE 6335-01-M

South Carolina 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 conference of the South Carolina Advisory Committee (SAC) of the Commisison will convene at 6:00 pm and will end at 9:00 pm on August 13, 1979, at the Garnet and Blue Room, Kirkland Green Student Center, South Carolina State College, Boulevard and Russell Streets, Orangeburg, South Carolina 29117.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue N.E., Atlanta, Georgia 30303.

The purpose of this meeting is a Regional Workshop on Municipal Services to cover a nine county area. City, State and federal officials will discuss the responsibilities of local governments to equalize services, followed by reporting on available resources.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 13, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-22214 Filed 7-17-79; 8:45 am]

BILLING CODE 6335-01-M

South Carolina 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 South Carolina Advisory Committee (SAC) of the Commission will convene at 5:00 pm and will end at 6:00 pm on August 13, 1979, at the Conference Room number 1, Kirkland Green Student Center, South Carolina State College, Boulevard and Russell Streets, Orangeburg, South Carolina 29117.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue N.E., Atlanta, Georgia 30303.

The purpose of this meeting is to have a briefing session for the regional workshop to follow. Instructions will be given to SAC members who will conduct small group discussions.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., July 13, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-22215 Filed 7-17-79; 8:45 am]

BILLING CODE 6335-01-M

THE PRESIDENT'S COMMISSION ON COAL

Seminar; Education for Contract Administration in Coal Industry

The President's Commission on Coal will conduct a seminar on education for contract administration in the coal industry on August 2, 1979, from 9:30 a.m. until 4:30 p.m. in room 2008 of the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C.

The Commission was created by executive order to conduct a comprehensive review of the state of the coal industry in the United States considering among other issues "collective bargaining, grievance procedures, and such other aspects of labor-management relations as the Commission deems appropriate."

After presentations by invited experts and representatives of coal industry labor and management, there will be a round table discussion with Commission members and participants.

The seminar will not be a formal hearing, but will be open to the public. Interested persons may file written statements with the Commission on the topics under discussion. These statements must be filed no later than September 1, 1979, to be included in the record of the proceedings.

Persons wishing more information or who wish to submit a statement with the Commission on education for contract administration in the coal industry should contact Mr. Allen Wampler, The President's Commission on Coal, 600 E Street, N.W., Suite 500, Washington, D.C. 20004, telephone 202/376-2001.

Dated: July 16, 1979.

Michael S. Koleda,

Executive Director, The President's Commission on Coal.

[FR Doc. 79-22415 Filed 7-17-79; 10:55 am]

BILLING CODE 4510-23-M

COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENTS

Additional Import Controls on Certain Cotton Textile Products From Pakistan

July 13, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling women's, girls' and infants' woven cotton blouses in Category 341 from Pakistan at a level of 102,621 dozen during the agreement year which began on January 1, 1979. (A detailed description of textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: Under the terms of paragraph 17 of the Bilateral Cotton Textile Agreement of January 4 and 9, 1978 between the Governments of the United States and Pakistan, the United States Government has decided to control imports of cotton textile apparel products in Category 341, produced or manufactured in Pakistan and exported to the United States during the twelve-month period which began on January 1, 1979, in addition to those categories previously designated.

EFFECTIVE DATE: July 18, 1979.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5421).

SUPPLEMENTARY INFORMATION: On January 2, 1979, there was published in the **Federal Register** (44 FR 92) a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton textile products, produced or manufactured in Pakistan, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on January 1, 1979 and extends through December 31 1979. In accordance with the terms of the bilateral agreement, the United States Government has decided also to control imports of cotton textile products in Category 341, produced or manufactured in Pakistan and exported to the United States during the twelve-month period which began on January 1, 1979. The level of restraint has not been adjusted to account for imports after December 31, 1978. Imports during the period beginning on January 1, 1979 and extending through May 31, 1979 have

amounted to 93,410 dozen and will be charged.

Robert E. Shepherd,

Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

United States Department of Commerce, The Assistant Secretary for Industry and Trade,
Washington, D.C., July 13, 1979.

Committee for the Implementation of Textile Agreements.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 27, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textiles and cotton textile products, produced or manufactured in Pakistan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 14, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 4 and 9, 1978 between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on July 18, 1979 and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 341 produced or manufactured in Pakistan in excess of 102,621 dozen.[1]

Cotton textile products in Category 341 which have been exported to the United States prior to January 1, 1979 shall not be subject to this directive.

Cotton textile products in Category 341 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978, (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Robert E. Shepherd,

Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

FR Doc. 79-22232 Filed 7-17-79; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to reflect imports after December 31, 1978. Imports during the period beginning on January 1, and extending through May 31, 1979 have amounted to 93,410 dozen.

COUNCIL ON WAGE AND PRICE STABILITY

Improving Government Regulations; Implementing Executive Order 12044: Guidelines

AGENCY: Council on Wage and Price Stability.

ACTION: Publication of proposed guidelines in response to Executive Order 12044.

SUMMARY: The Council on Wage and Price Stability is publishing proposed guidelines for implementing Executive Order 12044 and is seeking public comments on these guidelines.

FOR FURTHER INFORMATION CONTACT: George Johnson, General Counsel's Office, Council on Wage and Price Stability, 600 17th Street, N.W., Washington, D.C., 20506—202-456-6210.

SUPPLEMENTARY INFORMATION: The Council invites public comments on these proposed guidelines. Written comments (four copies if possible) should be sent to George Johnson at the above address. Any comments received by 5:30 p.m. on September 17, 1979 will be considered in preparing final guidelines. The Council intends to follow the proposed guidelines until final guidelines are published.

Proposed Guidelines: Introduction and Coverage

The Council on Wage and Price Stability is charged with the task of implementing the President's voluntary wage and price program and with monitoring and analyzing inflationary developments throughout the economy. Aside from its procedural rules, the Council issues no regulations which directly require compliance by members of the public. Rather, the Council issues voluntary standards which members of the public are encouraged to observe in order to combat inflation. Nevertheless, the effect of these voluntary standards on the public is sometimes similar to that of regulations.

The Council is sensitive to the effect of its promulgations on the public, and it intends to fulfill the objectives of Executive Order 12044. The process by which the Council will develop new voluntary standards and regulations is described below.

Executive Order 12044 in intended to improve the quality of agency regulatory practices. It is no intended to create delay in the process or to provide new ground for judicial review. The Council announces the procedures in this notice with the same intention.

Regulations that are issued in response to emergencies or that are governed by short term statutory deadlines are exempt from the requirements of the Order. The needs of the President's anti-inflation program may similarly in some cases require expedited formulation or publication of voluntary standards and regulations. Whenever it used an expedited process, the Council will publish an explanation of the reasons.

Development of New Standards and Regulations

The Council generally states or clarifies policy through three types of announcements—regulations, voluntary standards, and Questions and Answers (Q & A's).

Regulations govern the operation of the Council. They set forth the procedures which the public should observe in supplying or requesting information, in requesting exception decisions, in responding to notices of probable noncompliance, in requesting reconsideration of Council determinations, in requesting removal from the Council's noncompliance list, and in other specified situations.

Voluntary standards are the Council's substantive pronouncements. They set forth the voluntary pay and price guidelines to which the public is expected to adhere.

Q & A's treat situations that give rise, or may give rise, to request public inquiries. They clarify existing policy rather than announce new policy.

The Council intends that its regulations, voluntary standard, and Q & A's continue to be as simple and clear as possible; that they achieve policy goals effectively and efficiently; and that they impose no unnecessary burdens on the economy, on individuals, on public or private organizations, or on state and local governments. The

Council will observe these principles in formulating all new and revised regulations, voluntary standards, and Q & A's.

Agenda and Oversight

As a matter of general policy, the Council will publish an agenda twice each year listing the significant voluntary standards and regulations under development or review. The publication dates will be announced in the **Federal Register** on the first Monday in October. Insofar as is possible, each agenda will:

(1) Describe the actions being considered;

(2) Set forth their legal basis;

(3) Indicate which actions will be the subject of regulatory analyses;

(4) List the name and telephone number of a agency official knowledgeable about each action;

(5) List existing regulations and standards scheduled to be reviewed; and

(6) Summarize the status of actions previously listed on the agenda.

The agenda will be approved by the Director and published in the **Federal Register.**

Public Participation

The Council has always sought to provide opportunities for the public to participate in developing new or revised voluntary standards or regulations. It will continue to do so. Significant proposed voluntary standards and regulations will be published in the **Federal Register** for advance comment. If the Council does not provide a full 60-day advance comment period, it will publish an explanation of the reasons. The Council continues to invite public comment on its standards, regulations, and Q & A's at any time.

Approval of Significant Standards and Regulations

The Director of the Council will approve each significant proposed voluntary standard and regulation before it is published in the **Federal Register.** Before approving a standard or regulation, the Director will first determine that:

(1) It is needed;

(2) It is written in plain English and is understandable to those who are expected to comply with it;

(3) Alternative approaches, public comments, direct and indirect effects, and new reporting and recordkeeping burdens have been adequately considered;

(4) The least burdensome acceptable alternative has been chosen; and

(5) The name, address and telephone number of a knowledgeable agency official are included.

Determining Significant Regulations

In determining whether a voluntary standard or regulation is significant, the Council will consider:

(1) The nature and extent of its direct and indirect effects;

(2) Its relationship to the standards or regulations of other programs and agencies;

(3) The type and number of individuals, businesses, organizations, and state and local governments affected; and

(4) The compliance and reporting burdens likely to be involved.

A standard or regulation that is determined not be significant will be accompanied by a statement to that effect when it is proposed.

Regulatory Analyses

The Council intends to prepare regulatory analyses for significant voluntary standards or regulations that will have major economic consequences for the general economy or for individual industries, geographic regions, or levels of government. A proposed regulation or standard will be considered to have such major economic consequences if:

(a) It will have an annual effect on the economy of $100 million or more, or

(b) It will result in a major increase in costs or prices for individual industries, institutions, levels of government, or geographic regions.

If a regulatory analysis is prepared, the Council will make a draft available to the public when the proposed standard or regulation is published in the **Federal Register.** The Council will make a final version available when the final standard or regulation is published. Each regulatory analysis will contain a statement of the problem, a description of the major alternative ways of dealing with it, an analysis of the economic consequences of each of these alternatives, and an explanation of the reasons for choosing one alternative over another.

Review of Existing Requirements

The Council regularly reviews its existing voluntary standards and regulations. The Council will continue to review them:

(1) In response to public comment;

(2) When conditions affecting the standard or regulation change; and

(3) When there is a need to simplify or clarify them.

Barry Bosworth,

Director, Council on Wage & Price Stability.

[FR Doc. 79-22177 Filed 7-17-79; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Deletions and Amendment to Systems of Records

AGENCY: Department of the Army.

ACTION: Notice of deletions and amendment to systems of records.

SUMMARY: The Army proposes to delete 5 and amend 1 systems of records subject to the Privacy Act of 1974. Specific changes to the system being amended are set forth below, followed by the system published in its entirety as amended.

DATE: The system shall be amended as proposed without further notice on August 17, 1979, unless comments are received on or before August 17, 1979 which would result in a contrary determination and require republication for further comments.

ADDRESS: Any comments, including written data, views or arguments concerning the action proposed should be addressed to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Cyrus H. Fraker, The Adjutant General Center (DAAG-AMR-R), Department of the Army, 1000 Independence Avenue, SW., Washington, D.C. 20314; telephone 202/693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices, as prescribed by the Privacy Act, have been published in the **Federal Register** as follows:

FR Doc. 77-28225 (42 FR 50396) September 28, 1977

FR Doc. 78-23953 (43 FR 38070) August 25, 1978

FR Doc. 78-22562 (43 FR 40272) September 11, 1978

FR Doc. 78-26732 (43 FR 42026) September 19, 1978

FR Doc. 78-25819 (43 FR 42374) September 20, 1978

FR Doc. 78-26699 (43 FR 43059) September 22, 1978

FR Doc. 78-26996 (43 FR 43539) September 26, 1978

FR Doc. 78-29130 (43 FR 47604) October 16, 1978

FR Doc. 78-29211 (43 FR 48894) October 19, 1978

FR Doc. 78–29982 (43 FR 49557) October 24, 1978
FR Doc. 78–31795 (43 FR 52512) November 13, 1978
FR Doc. 78–34586 (43 FR 58111) December 12, 1978
FR Doc. 78–35523 (43 FR 59869) December 22, 1978
FR Doc. 79–5788 (44 FR 11105) February 27, 1979
FR Doc. 79–6621 (44 FR 12231) March 6, 1979
FR Doc. 79–8787 (44 FR 17767) March 23, 1979
FR Doc. 79–11350 (44 FR 22140) April 13, 1979
FR Doc. 79–13252 (44 FR 24904) April 27, 1979
FR Doc. 79–15909 (44 FR 29700) May 22, 1979
FR Doc. 79–37654 (44 FR 19958) June 28, 1979

Proposed amendment is not within the purview of the provisions of 5 U.S.C. 552a(o) of the act which require the submission of a new or altered system report.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

July 12, 1979.

DELETIONS

A0506.01aAMC

System name:

506.01 Security Clearance Information Files (42 FR 50487) September 28, 1977.

Reason:

Records are now covered by the amended system notice published below.

A0506.01bDAMI

System name:

506.01 Security Access Information Files (42 FR 50487) September 28, 1977.

Reason:

Records are now covered by the amended system notice published below.

A0506.01dDAMI

System name:

506.01 Security Clearance Information Files (42 FR 50448) September 28, 1977.

Reason:

Records are now covered by the amended system notice published below.

A0506.01gDAMI

System name:

506.01 Central Adjudication Retrieval System (CARS) (42 FR 50449) September 28, 1977.

Reason:

Records are now covered by the amended system notice published below.

A0506.05bUSAMSSA

System name:

506.05 SECURES (42 FR 50492) September 28, 1977.

Reason:

Records are now covered by the amended system notice published below.

Amendment

A0506.01fDAMI

System name:

506.01 Security Clearance Information Files (42 FR 50489) September 28, 1977.

Changes:

System name:

Change "Security Clearance Information Files" to: "Personnel Security Clearance Information Files".

System location:

Delete entry and substitute: "Primary System: Joint Adjudicative Clearance System (JACS) (segment of the Defense Central Index of Investigation (DCII), Defense Investigative Service (DIS), Ft. Holabird, MD 21203.

Decentralized Segments: Records as to the individual's personnel security and clearance status may be maintained by offices at Department of the Army (DA) Staff agencies, major commands, installations, activities, and unified and specified commands."

Categories of individuals covered by the system:

Delete entry and substitute: "Any individual, civilian or military, affiliated with the United States Army by assignment, employment, contractual relationship, or as the result of an interservice support agreement on whom a personnel security clearance determination has been completed, is in process, or may be pending."

Categories of records in the system:

Delete entry and substitute: "File may contain pending and completed personnel security clearance actions on individuals by personal identifying data. Also may contain briefing/debriefing statements for special programs, sensitive positions, and other related information and documents required in connection with personnel security determinations."

Authority for maintenance of the system:

Delete entry and substitute: "Executive Orders 10450 and 10865; Title 10 U.S.C., Section 3012; Title 50 U.S.C., Section 4039; and the National Security Act of 1947."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry and substitute: "To process requests for personnel security clearance actions; to determine eligibility for access to classified information or assignment to sensitive position; and to record security clearances issued or accepted.

Information may be released to other Department of Defense (DOD) and Federal agencies, based on formal accreditation as specified in official directives, regulations, and demonstrated need-to-know; to Federal, State, local, and foreign law enforcement, intelligence, or security agencies in connection with a lawful investigation under their jurisdiction; and to commanders/agency heads for adverse personnel actions such as fraudulent enlistment proceedings, removal from sensitive duties, elimination from the service, removal from employment, denial to a restricted or sensitive area, and revocation of security clearance."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Delete entry and substitute: "Paper records in folders, file cards; computer tape, punch cards, or disks."

Safeguards:

Delete entry and substitute: "Records are stored in locked buildings which employ security guards and are subject to Military Police and/or local civilian law enforcement patrol security. All records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Use of computers, including remote terminals, requires knowledge of special transaction codes to preserve integrity of data."

Retention and disposal:

Delete entry and substitute: "Primary system files are destroyed at the same time as the dossier upon which security clearance action was based. Decentralized segment personnel security clearance files are either (1) destroyed upon termination of access,

(2) destroyed 1 year from date of transfer or separation of individual, or (3) forwarded to the gaining organization. Investigative reports are forwarded to the United States Army Central Personnel Security Clearance Facility, Ft. Meade, MD for inclusion in dossier at the United States Army Intelligence and Security Command (USAINSCOM) Investigative Records Repository (IRR), Ft. Meade, MD 20755. Dossiers are maintained no longer than 15 years from date of last entry unless significant adverse information is present, in which case retention is 25 years. Copies of investigative reports are destroyed upon completion of final action."

System manager(s) and address:

Delete entry and substitute: "United States Army Central Personnel Security Clearance Facility, Ft. Meade, MD 20755."

Notification procedures:

Delete entry and substitute: "Information concerning status or degree of personnel security clearance/access may be obtained from the Installation or Command Security Officer where applicant was assigned or employed. Information contained in investigative files may be obtained from the appropriate investigative agency."

Contesting record procedures:

Delete entry and substitute: "The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505)."

Record source categories:

Delete entry and substitute: "Application and related forms obtained from the individual; investigative results from the DIS, USAINSCOM IRR, and other Federal, DOD, and DA investigative or law enforcement agencies."

Systems exempted from certain provisions of the act:

Delete entry and substitute: "Parts of this system may be exempt under Title 5 U.S.C., Section 552a(k) (1), (2), and (5). For additional information, contact the SYSMANAGER."

A0506.01fDAMI

SYSTEM NAME:

506.01 Personnel Security Clearance Information Files.

SYSTEM LOCATION:

Primary System: Joint Adjudicative Clearance System (JACS) (segment of the Defense Central Index of Investigation (DCII)), Defense Investigative Service (DIS), Ft. Holabird, MD 21203.

Decentralized Segments: Records as to the individual's personnel security and clearance status may be maintained by offices at Department of the Army (DA) Staff agencies, major commands, installations, activities, and unified and specified commands.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual, civilian or military, affiliated with the United States Army by assignment, employment, contractual relationship, or as the result of an interservice support agreement on whom a personnel security clearance determination has been completed, is in process, or may be pending.

CATEGORIES OR RECORDS IN THE SYSTEM:

File may contain pending and completed personnel security clearance actions on individuals by personal identifying data. Also may contain briefing/debriefing statements for special programs, sensitive positions, and other related information and documents required in connection with personnel security clearance determinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 10450 and 10865; Title 10 U.S.C., Section 3012; Title 50 U.S.C., Section 4039; and the National Security Act of 1947.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To process request for personnel security clearance actions; to determine eligibility for access to classified information or assignment to sensitive position; and to record security clearance issued or accepted.

Information may be released to other Department of Defense (DOD) and Federal agencies, based on formal accreditation as specified in official directives, regulations, and demonstrated need-to-know; to Federal, State, local, and foreign law enforcement, intelligence, or security agencies in connection with a lawful investigation under their jurisdiction; and to commanders/agency heads for adverse personnel actions such as fraudulent enlistment proceedings, removal from sensitive duties, elimination from the service, removal from employment, denial to a restricted or sensitive area, and revocation of security clearance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in folders, file cards; computer tape, punch cards, or disks.

RETRIEVABILITY:

Filed alphabetically by last name of individual or social security number (SSN).

SAFEGUARDS:

Records are stored in locked buildings which employ security guards and are subject to Military Police and/or local civilian law enforcement patrol security. All records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained. Use of computers, including remote terminals, requires knowledge of special transaction codes to preserve integrity of data.

RETENTION AND DISPOSAL:

Primary system miles are destroyed at the same time as the dossier upon which security clearance action was based. Decentralized segment personnel security clearance files are either (1) destroyed upon terminations of access, (2) destroyed 1 year from date of transfer or separation of individual, or (3) forwarded to the gaining organization. Investigative reports are forwarded to the United States Army Central Personnel Security Clearance Facility, Ft. Meade, MD for inclusion in dossier at the United States Army Intelligence and Security Command (USAINSCOM) Investigative Records Repository (IRR), Ft. Meade, MD 20755. Dossiers are maintained no longer than 15 years from date of last entry unless significant adverse information is present, in which case retention is 25 years. Copies of investigative reports are destroyed upon completion of final action.

SYSTEM MANAGER(S) AND ADDRESS:

United States Army Central Personnel Security Clearance Facility, Ft. Meade, MD 20755.

NOTIFICATION PROCEDURE:

Information concerning status or degree of personnel security clearance/access may be obtained from the Installation or Command Security Officer where applicant was assigned or employed. Information contained in investigative files may be obtained from the appropriate investigative agency.

RECORD ACCESS PROCEDURES:

Requests for security clearance information should be sent to:

Commander, ATTN: Security Officer, of the command or installation of assignment or employment.

Requests for information should contain the full name of the individual, SSN, current address, and telephone number.

For personal visits to the Security Office, the individual should be able to provide identification (e.g., driver's license, identification card) and give verbal information that can be verified with office records.

Requests for information contained in investigative files should be addressed to appropriate investigative agency with personal identifying date required by that system as published in the **Federal Register**

CONTESTING RECORD PROCEDURES:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Application and related forms obtained from the individual; investigative results from the DIS, USAINSCOM IRR, and other Federal, DOD, and DA investigative or law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under Title 5 U.S.C., Section 552a(k) (1), (2), and (5). For additional information, contact the SYSMANAGER.

[FR Doc. 79–22112 Filed 7–17–79; 8:45 am]

BILLING CODE 3710–08–M

Board of Visitors, U.S. Military Academy; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting.

Name of committee: Board of Visitors, United States Miliary Academy.

Dates of meeting: Aug. 6–8, 1979.

Place of meeting: West Point, New York.

Time: At West Point:

2100–2300, Aug. 6, Organizational Meeting (Hotel Thayer).

0800–1200, Aug. 7, Observe Cadet Field Training (Camp Buckner).

1300–1430, Aug. 7, Observe Cadet Basic Training (West Point).

1430–1545, Aug. 7, Board Discussions (Hotel Thayer).

1545–1700, Aug. 7, Observe Cadet Basic Training Mass Athletics and Corps Squad Screening (West Point).

0800–1100, Aug. 8, Observe Cadet Field Training (Camp Buckner).

1300–1700, Aug. 8, Observe Cadet Basic Training (West Point).

Proposed Agenda: Inquiry about the cadet training to include Cadet Field Training, Cadet Basic Training, honor instruction, and other matters relating to the Military Academy that the Board decides to consider.

All proceedings are open. For further information, contact LTC Kermit M. Henninger, United States Military Academy, West Point, New York, telephone 914–938–2785/4723.

For the board of visitors:

Kermit M. Henninger,

LTC, GS, Executive Secretary, 1979 Board of Visitors.

[FR Doc. 79–22157 Filed 7–17–79; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Notice of Closed Meeting

Pursuant to the provisions of Paragraph (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee will be held as follows:

Monday and Tuesday, August 20–21, 1979, Sandia Laboratories, Albuquerque, New Mexico.

The entire meeting, commencing at 0900 hours each day, is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on current and projected DoD HUMINT collection activities.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

July 12, 1979.

[FR Doc. 79–22110 Filed 7–17–79; 8:45 am]

BILLING CODE 3810–70–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Aluminum Company of America; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Consent Order and opportunity for Comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order and provides an opportunity for public comment on the proposed Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: June 18, 1979.

COMMENTS BY: August 17, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 (Phone) (214) 749–7626.

SUPPLEMENTARY INFORMATION: On June 18, 1979 the Office of Enforcement of the ERA executed a proposed Consent Order with Aluminum Company of America of Point Comfort, Texas. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, becomes effective only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. Consent Order

Aluminum Company of America is a firm engaged in the processing of natural gas and sale of natural gas liquids, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of sales of NGL's, the Office of Enforcement, ERA, and Aluminum Company of America entered into a compromise Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1973 through December 1978 and it included all sales of natural gas liquids which were made during that period.

2. Aluminum Company of America did not apply in a manner acceptable to the DOE the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subparts E and K, when determining the prices to be charged for its natural gas liquids; and, as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its customer.

3. In order to expedite resolution of the disputes involved, the DOE and Aluminum Company of America have agreed to a settlement in the amount of $1,100,000.00. The negotiated settlement

was determined to be in the public interest as well as the best interests of the DOE and Aluminum Company of America.

4. Because sales of the natural gas liquids were made to a refiner and the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with 10 CFR Part 205, Subpart V as provided below.

5. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Aluminum Company of America agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. 1. above, the sum of $1,100,000.00 on or before July 18, 1979. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects on the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not being required. Written notifcation to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, TX 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 749–7626.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Aluminum Company of America Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on August 17, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 20th day of June 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79–22082 Filed 7–17–79; 8:45 am]

BILLING CODE 6450–01–M

Marion Corp.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Consent Order between the Department of Energy and the Marion Corporation.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order and provides an opportunity for public comment on the proposed Consent Order.

COMMENTS BY: August 17, 1979.

ADDRESS: Send comments to Robert D. Gerring, Acting Director of Enforcement, Program Operations Division, 2000 M Street, NW., Room 5002–J, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Stanley S. Mills, Program Manager for Entitlements, Enforcement Program Operations Division, 2000 M Street, NW., Room 5108–F, Washington, D.C. 20461 (phone—(202) 254–3070).

SUPPLEMENTARY INFORMATION: On June 26, 1979, the Office of Enforcement of the ERA executed a proposed Consent Order with Marion Corporation of Mobile, Alabama. Under 10 CFR 205.199J(b), a proposed Consent which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, become effective only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Marion Corporation, with its home office located in Mobile, Alabama, is a firm engaged in, among other things, the refining and marketing of crude oil, JP–4 fuel and other refined petroleum products, and is subject to the Mandatory Petroleum Allocation and Price Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Marion, the ERA Office of Enforcement, and Marion entered into a Consent Order, the significant terms of which are as follows:

1. The Office of Enforcement has examined Marion's books and records and reviewed all pertinent matters relating to Marion's compliance with the provisions of 10 CFR 211.66(h) and 211.67 for the period November 1974 through January 1978. All matters pertaining to Marion's compliance with these regulations during the period November 1974 through January 1978 are resolved by this Consent Order.

2. During the period from November 1974 through January 1978 Marion was a participant in the Domestic Crude Oil Entitlement Program pursuant to the requirements of 10 CFR 211.66 and 211.67.

As part of this program, the Federal Energy Administration (FEA) developed a monthly report (Form P–102–M–1 and its predecessor P–102–M–0). In the forms which Marion had submitted for the period November 1974 through January

1978 Marion had failed to make adjustments to previously reported data to reflect final invoices and had failed to include (as a crude oil receipt), crude oil which Marion received from a nonrefiner for processing pursuant to a processing agreement.

3. Execution of the Consent Order constitutes neither an admission by Marion nor a finding by DOE that Marion has violated any statutes or applicable regulations of the Federal Energy Administration or the Department of Energy.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Marion agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $703,571. The refund shall be by certified checks, payable to the United States Treasury and delivered to the Program Manager of Entitlements, Office of Enforcement, Economic Regulatory Administration, as follows: Five equal installements of $117,262 commencing with the initial installment within 10 days of the effective date of this Consent Order and one final installment of $117,261. Each installment shall be delivered to the Program Manager for Entitlements, Office of Enforcement, ERA, Room 5108–F, 2000 M Street, NW., Washington, D.C. 20461, by the tenth day of each month following the initial installment.

III. Submission of Written Comments

The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should identify your comments on the outside of your envelope and on the documents you submit with the designation, "Comments on Marion Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on August 17, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C. on the 10th day of July 1979.

Barton Isenberg,

Assistant Administrator for Enforcement, Economic Regulatory Administration.

[FR Doc. 79-22081 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Subcommittee of the Committee on Materials and Manpower Requirements; Meeting

Notice is hereby given that a subcommittee of the Committee on Materials and Manpower Requirements has scheduled a meeting in August 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The subcommittee scheduling a meeting is the Outlook and Materials Subcommittee. The time, location and agenda of the meeting follows:

The second meeting of the Outlook and Materials Subcommittee is scheduled for Wednesday, August 1, 1979, starting at 9:00 a.m., Room 1992, Exxon Building, 800 Bell Avenue, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.

2. Review the progress of the Outlook and Materials Subcommittee's task groups.

3. Review the timetable of the Outlook and Materials Subcommittee.

4. Discussion of any other matters pertinent to the overall assignment of the Outlook and Materials Subcommittee.

The meeting is open to the public. The chairman of the subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202/633–8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on July 11, 1979.

R. Dobie Langenkamp,

Deputy Assistant Secretary Oil, Natural Gas and Shale Resources, Resource Applications.

July 11, 1979.

[FR Doc. 79-22080 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CI70-917, et al.]

Phillips Petroleum Co., et al.; Applications for Certificates, Abandonment of Service and Petitions To Ament Certificates[1]

July 10, 1979.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before July 18, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file an petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity.

Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI70-917, C, 6/26/79	Phillips Petroleum Company, 5 C4 Phillips Building, Bartiesville, Okla. 74004.	Panhandle Eastern Pipe Line Company, Douglas Plant, Powder River Basin Area of Wyoming.	(1)	14.73
CI75-42, C, 6/26/79	Phillips Petroleum Company	Panhandle Eastern Pipe Line Company, Douglas Plant, Powder River Basin Area of Wyoming.	(1)	14.73
CI76-239 E, 6/28/79	Gulf Oil Corporation (Succ. in Interest to Kewanee Oil Company P.O. Box 2100, Houston, Texas 77001.	Kansas-Nebraska Natural Gas Company, Inc., Dombey Southwest Field, Sec. 28-4N-20ECM, Beaver County, Oklahoma.	(2)	14.73
CI77-168, D, 6/28/79	Ladd Petroleum Corporation, 830 Denver Club Building, Denver, Colorado 80202.	Colorado Interstate Gas Company, Wild Rose Field, Sweetwater County, Wyoming.	Federal No. 1-22-74 Well, Sec. 22-17N-94W, Sweetwater County, Wyoming assigned to Cotton Petroleum Corporation 1-15-79.	
CI77-339, C, 8/25/78	Tenneco Oil Company P.O. Box 2511, Houston, Texas 77001.	El Paso Natural Gas Company, Leonard Queen South Formation, Lea County, New Mexico.	(3)	14.65
CI79-500, A, 6/21/79	The Offshore Company, P.O. Box 2765	Southern Natural Gas Company, Mississippi Canyon Blocks 150, 151, 194.	(1)	15.025
CI79-501, A, 6/21/79	The Offshore Company	Southern Natural Gas Company, West Cameron Block 330 Area, Offshore Louisiana.	(1)	15.025
CI79-502, A, 6/21/79	Sonat Exploration Company, 3336 Richmond Avenue, Houston, Texas 77098.	Southern Natural Gas Company, West Cameron Block 330 Area, Offshore Louisiana.	(1)	15.025
CI79-503, A, 6/21/79	Sonat Exploration Company	Southern Natural Gas Company, Mississippi Canyon Blocks 150, 151, 194 and 195, Offshore Louisiana.	(1)	15.025
CI79-506, A, 6/25/79	Tenneco Exploration, Ltd., P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, High Island Block A-336, East Addition, South Extension Area, High Island, Block A-343 Field, Offshore Texas.	(4)	14.65
CI79-512, A, 6/25/79	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Columbia Gas Transmission Corporation, West Delta Block 117 Field, Offshore Louisiana.	(1)	15.025
CI79-513, A, 6/27/79	The Louisiana Land And Exploration Company, 225 Baronne Street, P.O. Box 60350, New Orleans, La. 70160.	Transco Gas Supply Company, Certain acreage located in Eugene Island Area, Block 261 Field, Blocks 261 and 262, Gulf of Mexico.	(5)	15.025
CI79-514, A, 6/27/79	The Louisiana Land and Exploration Company, 225 Baronne Street, P.O. Box 60350, New Orleans, La. 70160.	Transco Gas Supply Company, Certain acreage located in West Cameron, Block 540 Field, Gulf of Mexico.	(5)	15.025
CI79-515, A, 6/27/79	The Louisiana Land Offshore Exploration Company, 225 Baronne Street, P.O. Box 60350, New Orleans, La. 70160.	Transco Gas Supply Company, Certain acreage located in West Cameron, Block 540 Field, Gulf of Mexico.	(5)	15.025
CI79-516, A, 6/27/79	Mesa Petroleum Co., One Mesa Square, P.O. Box 2009, Amarillo, Texas 79189.	Michigan Wisconsin Pipe Line Company, High Island Area, Block A-474 and Block A-489, Offshore Texas.	(6)	14.65
CI79-517, B, 6/27/79	Samedan Oil Corporation, P.O. Box 909, Ardmore, Okla. 73401.	Cities Service Gas Company, Rutledge #1 Gas Unit, Sec. 8-24N-18W, N.W. Quinlan Field, Woodward County, Oklahoma.	Depleted	
CI79-518, E, 6/28/79	Gulf Oil Corporation (Succ. in Interest to Kewanee Oil Company), P.O. Box 2100, Houston, Texas 77001.	Natural Gas Pipeline Company of America, Certain acreage located in the Lochridge Field, Ward County, Texas.	(7)	14.65
CI79-519, A, 6/25/79	Texaco, Inc., P.O. Box 60252, New Orleans, La. 70160.	Tennessee Gas Pipeline Company, East Cameron Area, Block 280 and the West Cameron Area, Block 509, Offshore Louisiana.	(8)	14.73
CI79-520, A, 6/20/79	The Louisiana Land And Exploration Company	Texas Eastern Transmission Corporation Certain acreage located in Block 522 Field, West Cameron Area, Offshore Louisiana.	(5)	15.025
CI79-521, A, 6/25/79	TransOcean Oil, Inc. (Operator), 1700 First City East, 1111 Fannin, Houston, Texas 77002.	Mid Louisiana Gas Company, MA-1 RA SuB Matherne No. 1 Well located in Sec. 44-T12S-R4E, College Point—St. James Field, St. James Parish, Louisiana.	(9)	15.025
CI79-522, A, 6/25/79	Texaco Inc	Columbia Gas Transmission Corporation, Blocks 642 and 643, West Cameron Area, Offshore Louisiana.	(10)	15.025

[2] Applicant is filing for the maximum lawful price under the Natural Gas Ploicy Act of 1978.

[3] Effective as of 7-1-78, Applicant acquired all of Kewanee's interest in acreage covered by Amendatory Agreement dated 1-3-79, which amends a contract executed bny Kewanee and Kansas-Nebraska dated 10-1-75, and a contract executed by Dow Chemical Company and Kansas-Nebraska dated 10-16-75.

[4] Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.

[5] Applicant is filing under Gas Purchase and Sales Agreement dated 6-21-79.

[6] Applicant is willing to accept a certificate conditioned upon a price equal to the maximum lawful price under Section 104 of the Natural Gas Ploicy Act of 1978, reserving it right to collect any higher applicable NGPA rate.

[7] Applicant is filing under Section 104 of the Natural Gas Policy Act of 1978.

[8] Effective as of 7-1-78, Applicant acquired all of Kewanee's interest in properties covered by contract dated 8-21-67, as amended.

[9] Applicant is filing under Gas Purchase Contract dated 6-19-79.

[10] Applicant, a large producer, has taken over as operator of the Matherne No. 1 well effective 2-1-79 and is requesting that temperorary authoriztion be granted effective 2-1-79. Applicant is willing to accept temporary authorization upon a initial rate parescribed under Section 104 of the Natural Gas Policy Act of 1978, provided that Applicant shall be entitled to file increases to any higher contracturally authorized prices in accordance with the Natural Gas Act and the NGPA.

[11] Applicant is filing for that price prescribed by Section 109(a)(2) of the Natural Gas Policy Act of 1978.

Filing code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 79-22011 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. G-6296, et al.]

Tenneco Oil Co., et al.; Applications For Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

July 10, 1979.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for Authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before July 18, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-6296, C, 10/20/78	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	El Paso Natural Gas Company, Jalmet Field, Lea County, New Mexico.	(1)	14.65
CI76-230, C, 4/24/78	Sun Oil Company, P.O. Box 20, Dallas, Texas 75221.	El Paso Natural Gas Company, Parkway West Field, Eddy County, New Mexico.	(1)	14.65
CI78-519, C, 6/26/78	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77001.	Northwest Pipeline Corporation, Winchester Morrow Field, State CX Com. No. 1 Well, Eddy County, New Mexico.	(1)	14.65
CI78-519, C, 7/24/78	Gulf Oil Corporation	Millman South Field, Eddy County, New Mexico	(1)	14.65

[1] Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.

Filling Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 79-22012 Filed 7-17-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket Nos. RP76-15 and RP76-98]

Algonquin Gas Transmission Co.; Tariff Sheet Filing Revising Purchased Feedstock Adjustment Clause for Rate Schedule SNG-1 To Provide for Current Cost Adjustment

July 9, 1979.

Take notice that on June 27, 1979, Algonquin Gas Transmission Company ("Algonquin Gas") tendered for filing three tariff sheets to Algonquin Gas' FERC Gas Tariff, First Revised Volume No. 1:

4th Revised Sheet No. 20-A
6th Revised Sheet No. 20-B
4th Revised Sheet No. 20-C

The proposed effective date of the above tariff sheets is August 1, 1979.

Algonquin Gas states such tariff sheets pertain only to Rate Schedule SNG-1 of Algonquin Gas and particularly to the Purchased Feedstock Adjustment Clause ("PFAC") contained in Section 10 of that Rate Schedule. Under the presently effective PFAC, Alogonquin Gas recovers its feedstock costs from the SNG customers through a procedure whereby total actual cost differences from the base amount are collected during the subsequent winter season on a "deferred account" basis. The change proposed is to introduce a current adjustment for feedstock cost variations from the base amount. Algonquin Gas proposes that such new current adjustment, together with the existing deferred account mechanism, will be used to balance feedstock costs and revenues.

Algonquin Gas further states in the Statement of the Nature, Reasons and Basis that this change does not increase the total dollars which the SNG-1 customers will pay for feedstock costs. Rather, the change will have the effect of tracking a greater portion of the feedstock cost changes on a current basis, in contrast to a presently effective one-year deferred basis for all such changes, thereby more nearly reflecting a "pay as you go" procedure.

A second change made in the PFAC is an incidental change to delete references to "Temporary Buyers" presently contained in the PFAC. This change is now proposed because the regular customers are now purchasing the total SNG-1 supply and reference to Temporary Buyers is no longer applicable or required.

Algonquin Gas states that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory commission, 825 North Capital Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitons or protests should be filed on or before July 20, 1979. Protests will be considered by the Commission in detrmining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22180 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP74-61, et al.]

Arkansas Louisiana Gas Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

July 3, 1979.

Take notice that the pipeline listed in the appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before July 23, 1979. Copies of the respective filings are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
May 23, 1979	Ark-La	RP74-61	Report.
June 18, 1979	Texas Gas	G-18886, et al.	Report.
June 22, 1979	East Tennessee.	RP 75-28	Report.

[FR Doc. 79-22181 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2876]

California Department of Water Resources; Application for Transmission Line License

July 5, 1979.

Take notice that an application for a transmission line license—Project No. 2876—was filed on October 19, 1978, by the California Department of Water Resources (Applicant). The proposed transmission line would be located in Fresno County, California. Correspondence concerning the application should be sent to: Ronald B. Robie, Director, California Department of Water Resources, P.O. Box 388, Sacramento, California 95802.

Applicant proposes to construct a 0.8-mile-long, 230-kV, three-phase single-circuit transmission line, including three towers, from the proposed Pine Flat Powerhouse Switchyard to be constructed by Kings River Conservation District (Applicant for the Pine Flat Project No. 2741). The proposed transmission line would transmit power from the Pine Flat Powerhouse to Pacific Gas and Electric Company's (PG&E) existing Balch #2-McCall 230-kV transmission line. The transmission line would be a primary line as defined by Section 3(11) of the Federal Power Act, (16 U.S.C. 796(11)), and would be licensed as a project work under Section 4(e) of that Act, 16 U.S.C. 797(e). The three towers proposed are self-supporting square base lattice steel structures, varying in heights from approximately 79 to 112 feet. The required right-of-way would be 120 feet in width, and would occupy a total of 12.33 acres of land. The closest existing transmission right-of-way is PG&E's transmission line corridor south of the U.S. Corps of Engineers' Pine Flat Dam.

The energy transmitted over the transmission lines would be used to operate the pumping plants of the state water project.

Anyone desiring to be heard or to make any protest about this application should file a protest or a petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure ("Rules"), 18 CFR § 1.10 or § 1.8 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before August 17, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22182 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC79-133]

Citizens Utility Co.; Petition for Relief From Curtailment

July 10, 1979.

Take notice that on May 25, 1979, Citizens Utility Company (Petitioner), High Ridge Park, Stamford, Connecticut 06905, filed in Docket No. TC79-133 a petition for relief from the natural gas curtailment provisions of the FERC Gas Tariff of El Paso Natural Gas Company (El Paso), Petitioner's sole supplier of natural gas, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that it is engaged in the sale of natural gas in the vicinity of Nogales and other areas in Santa Cruz County, Arizona, that it serves approximately 4,500 customers, all of whom are in the residential and small commercial end-use category, and that under El Paso's curtailment plan Petitioner is limited to its base volumes as the absolute limit which El Paso may deliver to Petitioner under El Paso's curtailment plan. As a result, Petitioner alleges, it has had a moratorium on new service since April 1975, it has 225 pending applications for new service, and it estimates that it would have immediately 200 additional applications if it were to lift its moratorium. Petitioner anticipates the following additional demands for priority 1 (residential and small commercial) service:

1979	425
1980	295
1981	326
1982	361

Petitioner requests an increase in base volumes to enable it to satisfy the increase in demand anticipated through 1982. The annual increases in Mcf would be as follows:

1979	17,185
1980	66,576
1981	96,722

Petitioner states that it is not requesting any increase in peak day entitlement, that the relief is requested for permanent duration, that the gas would be used for residential and small commercial purposes, that alternatively available fuels in Petitioner's service area are liquid propane and electricity which Petitioner's customers do not realistically have capabilities to use, that there are no other suppliers of gas in Petitioner's service area other than El Paso, and that there is no flexibility available to Petitioner in the administration of curtailment by curtailment of deliveries to industrial customers because Petitioner has no industrial customers. Further, Petitioner states, it has investigated alternatives for a supplemental gas supply including a propane-air plant and purchase of its own natural gas reserves and has found such alternatives not to be economically feasible.

Any person desiring to be heard or to make any protest with reference to said petition should on or before July 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22183 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP73-65]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 6, 1979.

Take notice that on June 28, 1979, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1:

Fifth Revised Sheet No. 64

Said tariff sheet bears an issue date of June 28, 1979, and an effective date of July 29, 1979.

Columbia states that the foregoing revised tariff sheet revises the Purchased Gas Cost Adjustment Provision of the General Terms and Conditions of its FERC Gas Tariff to make that provision applicable to Columbia's EX Rate Schedule (Excess Gas Service). Columbia further states that copies of the filing were served upon each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission; Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before July 23, 1979. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22184 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-354]

Columbia Gulf Transmission Co.; Application

July 10, 1979.

Take notice that on June 11, 1979, Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama, Houston, Texas 77027, filed in Docket No. CP79-354 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a Dresser Industries Clark Compressor Model CSR-97 located at its Delhi, Louisiana, compressor Station, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Columbia Gulf states that it has installed at Delhi compression rated at 53,500 horsepower but requires only 37,170 horsepower at that point, thus making the CSR-97 compressor unit, which is rated at 9,000 horsepower no longer required to enable Columbia Gulf to utilize the maximum capacity of its mainline. further, it is asserted, the CSR-97 unit has failed to meet performance requirements and is uneconomical and maintenance costs are excessive.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia Gulf to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22185 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-379]

Consolidated Gas Supply Corp.; Application

July 10, 1979

Take notice that on June 22, 1979, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP79-379 an application pursuant to section 7(c) of the Natural Gas act for a certificate of public convenience and necessity authorizing

the rendition of a one-year storage service to Nashville Gas Company (Nashville), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Consolidated seeks authorization to render a one-year storage service for Nashville commencing in accordance with an agreement dated May 4, 1979, between Consolidated and Nashville. Consolidated proposes to render a storage service with a total storage capacity quantity of 600,000 dekatherms equivalent of gas and a daily storage demand quantity of 5,455 dekatherms equivalent of natural gas. It is stated that this storage service is to be rendered and charged for in accordance with Consolidated's Rate Schedule GSS.

Consolidated states that no new facilities would be required to handle the gas under the program covered by the agreement. It is indicated that Nashville has arranged with its supplier, Tennessee Natural Gas Lines, Inc. (Tennessee Natural), and its supplier's supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), to transport the quantities of gas covered by the agreement to Consolidated for injection into storage, and to return such gas to Nashville upon withdrawal from storage. Consolidated further states that the gas to be delivered to Consolidated and to be returned by Consolidated for Nashville's storage account would be delivered at the existing interconnection between facilities of Consolidated and Tennessee at the Ellisburg Storage Field, Potter County, Pennsylvania, or when operating conditions require, at such other existing interconnections between the facilities of Tennessee and Consolidated as may be mutually agreed by Tennessee and Consolidated.

It is asserted that during the period commencing upon issuance of the subject authorization and ending October 31, 1979, Consolidated would receive and inject into storage for Nashville's account, up to 5,455 dekatherms equivalent of gas per day, not to exceed the storage capacity quantity of 600,000 dekatherms equivalent of natural gas. During the period, November 1, 1979, through March 31, 1980, Consolidated would use its best efforts to withdraw from storage and deliver for Nashville's account up to 5,455 dekatherms equivalent of gas per day, not to exceed the quantity injected into storage.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10).. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to paricipate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this applicaton if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, furter notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

FR Doc. 79-22186 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

July 6, 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./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. 79-09655
2. 01-057-20119
3. 102
4. Grace Petroleum Corporation
5. Roberts 21-3
6. Musgrove Creek
7. Fayette, AL
8. 108.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Engineering Co., Inc.

1. 79-09656
2. 01-057-0000
3. 102
4. Grace Petroleum Corporation
5. Roberts 16-13
6. Musgrove Creek
7. Fayette, AL
8. 84.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Engineering Co., Inc.

1. 79-09657
2. 01-057-20122
3. 102
4. Grace Petroleum Corporation
5. N P Brown #1
6. Blooming Grove
7. Lamar, AL
8. 130.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Engineering Co., Inc.

1. 79-09658
2. 01-057-20056
3. 102
4. Grace Petroleum Corporation
5. A M Grimsley #2
6. Blooming Grove
7. Fayette, AL
8. 300.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Engineering Co , Inc.

1. 79-09659
2. 01-057-20031
3. 102
4. Grace Petroleum Corporation
5. J C Randolph 1-17
6. Musgrove Creek
7. Fayette, AL
8. 250.0 million cubic feet
9. June 21, 1979
10. Coronado Transmission Company

1. 79-09660
2. 01-057-20077
3. 103
4. Grace Petroleum Corporation
5. Hubbert 24-14
6. Hubbertville
7. Fayette, AL
8. 36.0 million cubic feet
9. June 21, 1979
10. Coronado Transmission Company

1. 79-09661
2. 01-057-20062
3. 102
4. Grace Petroleum Corporation
5. Robert Gibson #1
6. Musgrove Creek
7. Fayette, AL
8. 250.0 million cubic feet
9. June 21, 1979
10. Coronado Transmission Company

1. 79-09662

2. 01–057–20093
3. 102
4. Grace Petroleum Corporation
5. White #8–4
6. Blooming Grove
7. Fayette, AL
8. 220.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Engineering Co., Inc.

1. 79–09663
2. 01–057–20085
3. 103
4. Grace Petroleum Corporation
5. C M Walker #1
6. Musgrove Creek
7. Fayette, AL
8. 190.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Engineering Co., Inc.

1. 79–09664
2. 01–057–20071
3. 102
4. Grace Petroleum Corporation
5. J T Hutts #1
6. Blooming Grove
7. Fayette, AL
8. 250.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Engineering Co., Inc.

1. 79–09665
2. 01–057–20074
3. 102
4. Grace Petroleum Corporation
5. S L Whitley #1
6. Blooming Grove
7. Fayette, AL
8. 150.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Engineering Co., Inc.

1. 79–09666
2. 01–057–20076
3. 103
4. Grace Petroleum Corporation
5. L R Smith #2–5
6. Blooming Grove
7. Fayette, AL
8. 160.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Engineering Co., Inc.

1. 79–09667
2. 01–057–20068
3. 102
4. Grace Petroleum Corporation
5. Newman-Lumber Company #1
6. Blooming Grove
7. Fayette, AL
8. 217.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Engineering Co., Inc.

1. 79–09668
2. 01–075–20116–
3. 102
4. Grace Petroleum Corporation
5. Brown 1–9
6. Blooming Grove
7. Lamar, AL
8. 180.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Engineering Co., Inc.

1. 79–09669
2. 01–057–20155
3. 103
4. Anderman Operating Company
5. A B Fowler #10–3
6. Davis Chapel
7. Fayette, AL
8. 180.0 million cubic feet
9. June 21, 1979
10. Coronado Transmission Company

1. 79–09670
2. 01–053–20129
3. 107
4. Exxon Corporation
5. J L Jernigan et al No. 31–5
6. JAY/LEC
7. Escambia AL
8. 900.0 million cubic feet
9. June 21, 1979
10. Florida Gas Trans. Co., St. Regis Paper Co., Gulf Power Co., Monsanto Company

1. 79–09671
2. 01–053–20125
3. 107
4. Exxon Corporation
5. McDavid Lands et al No. 30–2B
6. JAY/LEC
7. Escambia, AL
8. 2300.0 million cubic feet
9. June 21, 1979
10. Florida Gas Trans. Co., St. Regis Paper Co., Gulf Power Co., Gulf Power Co., Monsanto, Company

1. 79–09672
2. 01–057–20078
3. 102
4. Grace Petroleum Corporation
5. Arnold E Moore 13–13
6. Bluff,
7. Fayette, AL
8. 205.0 million cubic feet
9. June 21, 1979
10. Southern Natural Gas Co.

1. 79–09673
2. 01–057–20126
3. 102
4. Grace Petroleum Corporation
5. Porter-May-Fowler 12–1
6. Bluff
7. Fayette, AL
8. 259.1 million cubic feet
9. June 21, 1979
10. Southern Natural Gas Co.

1. 79–09674
2. 01–057–20111
3. 102
4. Grace Petroleum Corporation
5. Arnold Moore 14–15
6. Bluff
7. Fayette, AL
8. 240.5 million cubic feet
9. June 21, 1979
10. Southern Natural Gas Co.

1. 79–09675
2. 01–057–20149
3. 102
4. Warrior Drilling & Eng. Co. Inc.
5. C Sizemore
6. Blowhorn Creek
7. Lamar, AL
8. 267.0 million cubic feet
9. June 21, 1979
10.

1. 79–09676
2. 01–057–20130
3. 102
4. Warrior Drilling & Eng. Co. Inc.
5. Riley-Earnest-Webster
6. Bluff
7. Fayette, AL
8. 78.0 million cubic feet
9. June 21, 1979
10.

1. 79–09677
2. 01–057–20069
3. 102
4. Warrior Drilling & Engineering Co. Inc.
5. M E Baines Estate #1
6. McCracken Mountain
7. Fayette, AL
8. 203.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Engineering Co., Inc.

1. 79–09678
2. 01–057–20130
3. 102
4. Grace Petroleum Corporation
5. H Perkins
6. Blooming Grove
7. Fayette, AL
8. 125.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Exploration Co., Inc.

1. 79–09679
2. 01–057–20141
3. 102
4. Grace Petroleum Corporation
5. Killingsworth 8–13
6. Musgrove Creek
7. Fayette, AL
8. 47.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Exploration Co., Inc.

1. 79–09680
2. 01–057–20116
3. 102
4. Grace Petroleum Corporation
5. M O Richey #2
6. Blooming Grove
7. Fayette, AL
8. 144.0 million cubic feet
9. June 21, 1979
10. Warrior Drilling & Engineering Co., Inc.

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. 79–09491
2. 01–073–00277
3. 108
4. Lahoma Gas Company
5. John T. Cole #5
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 4.1 million cubic feet
9. June 21, 1979
10. IMC Exploration Company

1. 79–09492
2. 07–111–20352
3. 108
4. Roy M. Teel
5. Olinkraft No. 3
6. Monroe Gas Rock Field
7. Union, LA
8. 3.5 million cubic feet

9. June 21, 1979
10. IMC Exploration Company

1. 79–09493
2. 17–111–20340
3. 108
4. Roy M Teel
5. Olinkraft #2
6. Monroe Gas Rock Field
7. Union, LA
8. 5.0 million cubic feet
9. June 21, 1979
10. IMC Exploration Company

1. 79–09494
2. 17–111–20339
3. 108
4. Roy M. Teel
5. Olinkraft #1
6. Monroe Gas Rock Field
7. Union, LA
8. .4 million cubic feet
9. June 21, 1979
10. IMC Exploration Company

1. 79–09495
2. 17–111–20354
3. 108
4. Roy M. Teel
5. Monterey #4
6. Monroe Gas Rock Field
7. Union, LA
8. 2.1 million cubic feet
9. June 21, 1979
10. IMC Exploration Company

1. 79–09496
2. 17–111–20350
3. 108
4. Roy M. Teel
5. Monterey #1
6. Monroe Gas Rock Field
7. Union, LA
8. 3.0 million cubic feet
9. June 21, 1979
10. IMC Exploration Company

1. 79–09497
2. 17–073–20032
3. 108
4. Roy M. Teel
5. Cole Heirs #25
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 13.6 million cubic feet
9. June 21, 1979
10. IMC Exploration Company

1. 79–09498
2. 17–073–20021
3. 108
4. Roy M. Teel
5. Abe Arent #2
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 9.3 million cubic feet
9. June 21, 1979
10. IMC Exploration Company

1. 79–09499
2. 17–073–20022
3. 108
4. Roy M. Teel
5. Pace Lake #3
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 10.7 million cubic feet
9. June 21, 1979
10. IMC Exploration Company

1. 79–09500
2. 17–073–20023
3. 108
4. Roy M. Teel
5. Union Producing #5
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 12.3 million cubic feet
9. June 21, 1979
10. IMC Exploration Company

1. 79–09501
2. 17–073–20024
3. 108
4. Roy M. Teel
5. Union Producing #6
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 5.9 million cubic feet
9. June 21, 1979
10. IMC Exploration Company

1. 79–09591
2. 17–111–21642
3. 103
4. Primos Production Co.
5. Fee 56 #1
6. Monroe Field
7. Union, LA
8. 20.5 million cubic feet
9. June 21, 1979
10. United Gas Pipeline

1. 79–09592
2. 17–111–21661
3. 103
4. Primos Production Co.
5. Nolan #1
6. Monroe Field
7. Union, LA
8. 20.5 million cubic feet
9. June 21, 1979
10. United Gas Pipeline

1. 79–09593
2. 17–073–00144
3. 108
4. Lahoma Gas Company
5. Pace Lake Gas Co. #1
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 7.8 million cubic feet
9. June 21, 1979
10. IMC Exploration Company

1. 79–09594
2. 17–111–20351–0000
3. 108
4. Roy M. Teel
5. Olinkraft #4
6. Monroe Gas Rock Field
7. Union, LA
8. 11.1 million cubic feet
9. June 21, 1979
10. IMC Exploration Company

1. 79–09595
2. 17–073–20017
3. 108
4. Lahoma Gas Company
5. John T. Cole #2A
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 9.7 million cubic feet
9. June 21, 1979
10. IMC Exploration Company

1. 79–09596
2. 17–031–00000
3. 108
4. Getty Oil Company
5. J. D. Sample No. 1 #38482
6. Logansport
7. De Soto, LA
8. 15.8 million cubic feet
9. June 21, 1979
10. Tennessee Gas Pipeline Company

1. 79–09597
2. 17–073–20260
3. 108
4. Roy M. Teel
5. Nachtrieb #9
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 5.5 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light

1. 79–09598
2. 17–111–20499
3. 108
4. K. D. Lankford Jr., et al.
5. Pennzoil Fee 51 Gru #1
6. Monroe
7. Union, LA
8. 10.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Company

1. 79–09599
2. 17–111–21303
3. 108
4. K. D. Lankford Jr., et al.
5. Pennzoil Fee 51A Gru #1
6. Monroe
7. Union, LA
8. 17.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Company

1. 79–09600
2. 17–111–20500
3. 108
4. K. D. Lankford Jr., et al.
5. Pennzoil Fee 61 #1
6. Monroe
7. Union, LA
8. 10.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Company

1. 79–09601
2. 17–111–20501
3. 108
4. K. D. Lankford Jr., et al.
5. Pennzoil Fee 61 Gru #2
6. Monroe
7. Union, LA
8. 10.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Company

1. 79–09602
2. 17–111–20490
3. 108
4. K. D. Lankford Jr., et al.
5. Pennzoil Fee 61 Gru #3
6. Monroe
7. Union, LA
8. 9.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Company

1. 79–09603
2. 17–057–21491
3. 103
4. Davis Oil Company
5. State Lease 2374 #1
6. Lake Boeuf
7. Lafourche Parish, LA
8. 500.0 million cubic feet
9. June 21, 1979

10. Louisiana Resources Company
1. 79–09604
2. 17–051–20490
3. 103
4. Northcott Exploration Co., Inc.
5. TP–2 RA NVU L L & E No. 1
6. Little Lake
7. Jefferson, LA
8. 300.0 million cubic feet
9. June 21, 1979
10. Tennessee Gas Pipeline Co.
1. 79–09605
2. 17–009–20223
3. 107
4. Shell Oil Co.
5. 16600 TUSC RA Sun Leopold No. 1
6. Moncrief
7. Avoyelles, LA
8. 1800.0 million cubic feet
9. June 21, 1979
10. Louisiana Intrastate Gas Corp.
1. 79–09606
2. 17–097–20490
3. 107
4. Shell Oil Company
5. 16600 TUSC RB SUB W Myers No. 1
6. Moncrief
7. St. Landry, LA
8. 7200.0 million cubic feet
9. June 21, 1979
10. Louisiana Intrastate Gas Corp.
1. 79–09607
2. 17–109–21966
3. 103
4. The Superior Oil Company
5. VUA CL&F Co. SA No. 11–D
6. Kent Bayou
7. Terrebone, LA
8. 190.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co.
1. 79–09608
2. 17–111–20161
3. 108
4. South Coast Oil Inc.
5. Pennzoil Fee 1 137952
6. Monroe Gas Field
7. Union Parish, LA
8. 8.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co.
1. 79–09609
2. 17–111–20255
3. 108
4. South Coast Oil, Inc.
5. Pennzoil Fee 2 140344
6. Monroe Gas Field
7. Union Parish, LA
8. 8.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co.
1. 79–09610
2. 17–111–20256
3. 108
4. South Coast Oil, Inc.
5. Pennzoil Fee 3 140345
6. Monroe Gas Field
7. Union, LA
8. 8.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co.
1. 79–09611
2. 17–111–20257
3. 108
4. South Coast Oil, Inc.
5. Pennzoil Fee 4 140346
6. Monroe Gas Field
7. Union Parish, LA
8. 8.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co.
1. 79–09612
2. 17–111–20258
3. 108
4. South Coast Oil, Inc.
5. Pennzoil Fee 5 140347
6. Monroe Gas Field
7. Union, LA
8. 8.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co.
1. 79–09613
2. 17–111–20259
3. 108
4. South Coast Oil, Inc.
5. Pennzoil Fee 6 140348
6. Monroe Gas Field
7. Union, LA
8. 8.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co.
1. 79–09614
2. 17–001–20660
3. 103
4. The Stone Oil Corporation
5. Justine Bruner Graham No. 1 157643
6. Branch Field
7. Acadia, LA
8. 183.0 million cubic feet
9. June 21, 1979
10. Texas Eastern Trans Corp.
1. 79–09615
2. 17–051–21155
3. 108
4. Roy M. Teel
5. Nachtrieb No. 8
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 3.5 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light
1. 79–09616
2. 17–111–21156
3. 108
4. Roy M. Teel
5. Exxon 29–1
6. Monroe Gas Rock Field
7. Union, LA
8. 8.5 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light
1. 79–09617
2. 17–111–21219
3. 108
4. Roy M. Teel
5. Exxon 29–3
6. Monroe Gas Rock Field
7. Union, LA
8. 5.2 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light
1. 79–09618
2. 17–111–21159
3. 108
4. Roy M. Teel
5. Exxon 29–4
6. Monroe Gas Rock Field
7. Union, LA
8. 10.8 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light
1. 79–09619
2. 17–111–21160
3. 108
4. Roy M. Teel
5. Exxon 29–5
6. Monroe Gas Rock Field
7. Union, LA
8. 10.1 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light
1. 79–09620
2. 17–111–21203
3. 108
4. Roy M. Teel
5. Exxon 29–6
6. Monroe Gas Rock Field
7. Union, LA
8. 10.1 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light
1. 79–09621
2. 17–111–21158
3. 108
4. Roy M. Teel
5. Exxon 31–6
6. Monroe Gas Rock Field
7. Union, LA
8. 10.8 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light
1. 79–09622
2. 17–073–20393
3. 108
4. Roy M. Teel
5. Nachtrieb No. 1
6. Monroe Gas Rock Field
7. Ouachita, LA
8. 5.2 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light
1. 79–09623
2. 17–067–21039
3. 108
4. K. D. Lankford, Jr. & L&N Drlg Co
5. Pennzoil-School Board No. A–2
6. Monroe Gas
7. Morehouse, LA
8. 6.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co
1. 79–09624
2. 17–031–20672
3. 103
4. Enerco Exploration & Management Co.
5. McMillan No. 1–155586
6. Bethany-Longstreet
7. DeSoto, LA
8. 90.2 million cubic feet
9. June 21, 1979
10. Arkansas Louisiana Gas Co.
1. 79–09625
2. 17–031–20660
3. 103
4. Enerco Exploration & Mgmt. Co.
5. Cv Ra Sux Pankey No. 2—No. 155041
6. Bethany-Longstreet
7. DeSoto, LA
8. 72.3 million cubic feet
9. June 21, 1979
10. Arkansas Louisiana Gas Co.

1. 79–09626
2. 17–111–21479
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas No. 707 Ser. No. 159839
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09627
2. 17–111–21480
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas No. 706 Ser. No. 159840
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09628
2. 17–111–21481
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas No. 705 Ser. No. 159841
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09629
2. 17–111–20410
3. 108
4. Roy M Teel
5. Rogers #1
6. Monroe Gas Rock Field
7. Union, LA
8. 8.6 million cubic feet
9. June 21, 1979
10. IMC Exploration Co

1. 79–09630
2. 17–073–20394
3. 108
4. Roy M Teel
5. Nachtrieb #2
6. Monroe Gas Rock Field
7. Quachita, LA
8. 7.4 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light

1. 79–09631
2. 17–073–20855
3. 108
4. Roy M Teel
5. Nachtrieb #3
6. Monroe Gas Rock Field
7. Quachita, LA
8. 10.2 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light

1. 79–09632
2. 17–073–20852
3. 108
4. Roy M Teel
5. Nachtrieb #4
6. Monroe Gas Rock Field
7. Quachita, LA
8. 5.3 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light

1. 79–09633
2. 17–073–20258
3. 108
4. Roy M Teel
5. Nachtrieb #5
6. Monroe Gas Rock Field
7. Quachita, LA
8. 6.9 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light

1. 79–09634
2. 17–073–20253
3. 108
4. Roy M Teel
5. Nachtrieb #6
6. Monroe Gas Rock Field
7. Quachita, LA
8. 5.8 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light

1. 79–09635
2. 17–073–20715
3. 108
4. Roy M Teel
5. Nachtrieb #7
6. Monroe Gas Rock Field
7. Quachita, LA
8. 7.0 million cubic feet
9. June 21, 1979
10. Louisiana Power & Light

1. 79–09636
2. 17–003–00050
3. 108
4. Tommy Littlepage
5. G W Jenkins #2 D
6. North Elton
7. Allen, LA
8. 12.0 million cubic feet
9. June 21, 1979
10. Michigan Wisconsin Pipeline Co

1. 79–09637
2. 17–075–22309
3. 103
4. Texaco Inc
5. SL 214 Garden Island Bay #844
6. Garden Island Bay
7. Plaquemines, LA
8. 3.2 million cubic feet
9. June 21, 1979
10. Southern Natural Gas Co

1. 79–09638
2. 17–075–22361
3. 103
4. Texaco Inc
5. SL 214 Garden Island Bay #845
6. Garden Island Bay
7. Plaquemines, LA
8. 4.0 million cubic feet
9. June 21, 1979
10. Southern Natural Gas Co
Transcontinental Gas Pipeline Co

1. 79–09639
2. 17–075–22499
3. 103
4. Texaco Inc
5. SL 214 Garden Island Bay #855
6. Garden Island Bay
7. Plaquemines, LA
8. 6.4 million cubic feet
9. June 21, 1979
10. Southern Natural Gas Co
Transcontinental Gas Pipeline Co

1. 79–09640
2. 17–111–21484
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #702 Ser #159844
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09641
2. 17–111–21491
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #695 Ser #159851
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09642
2. 17–111–21494
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #692 Ser #159854
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09643
2. 17–111–21497
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #689 Ser #159857
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09644
2. 17–111–21391
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #678 Ser #158846
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09645
2. 17–111–21478
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #708 Ser #159838
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09646
2. 17–111–21531
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #714 Ser #160144
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09647
2. 17–111–21409
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #670 Ser #158941
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09648
2. 17–111–21412
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #673 Ser #158944
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09649
2. 17–111–21388
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #675 Ser #158843
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09650–
2. 17–111–21390
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #677 Ser #158845
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09651
2. 17–111–21392
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #679 Ser #158847
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09652
2. 17–111–21394
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #681 Ser #158849
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09653
2. 17–111–21482
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #704 Ser #159842
6. Monroe Gas Field
7. Union, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09654
2. 17–001–20622
3. 102
4. The Superior Oil Company
5. NS 1 RA SUA P Melancon No 1–D
6. South Bosco
7. Acadia Parish, LA
8. 1172.0 million cubic feet
9. June 21, 1979
10. Texas Gas Transmission Corp

1. 79–09732
2. 17–019–20807
3. 103
4. Great Southern Oil & Gas Co. Inc.
5. Hazel R. Carlin #1
6. South Bell City
7. Calcasieu Parish, LA
8. 161.0 million cubic feet
9. June 21, 1979
10. Continental Oil Company

1. 79–09733
2. 17–023–21150
3. 103
4. Texaco Inc
5. Miami Corp #7
6. East Mud Lake
7. Cameron Parish, LA
8. 876.0 million cubic feet
9. June 21, 1979
10. Columbia Gas Transmission Corp

1. 79–09734
2. 17–700–20155
3. 103
4. Chevron USA Inc
5. OCS–G–1439 #8
6. West Cameron Block 49
7. Cameron, LA
8. 1861.0 million cubic feet
9. June 21, 1979
10. Natural Gas Pipeline Co of America

1. 79–09735
2. 17–700–20155
3. 103
4. Chevron USA Inc
5. OCS–G–1439 #8D
6. West Cameron Block 49
7. Cameron, LA.
8. 1861.0 million cubic feet
9. June 21, 1979
10. Natural Gas Pipeline Co of America

1. 79–09736
2. 17–067–20290
3. 108
4. Pennzoil Producing Company
5. Crossett Tbr & Dev Co No 173
6. Monroe
7. Morehouse, LA
8. 15.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co

1. 79–09737
2. 17–067–20291
3. 108
4. Pennzoil Producing Company
5. Crossett Tbr & Dev Co No 173
6. Monroe
7. Morehouse, LA
8. 6.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co

1. 79–09738
2. 17–067–20292
3. 108
4. Pennzoil Producing Company
5. Crossett Tbr & Dev Co No 174
6. Monroe
7. Morehouse, LA
8. 5.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co

1. 79–09739
2. 17–067–20293
3. 108
4. Pennzoil Producing Company
5. Crossett Tbr & Dev Co No 175
6. Monroe
7. Morehouse, LA
8. 3.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co

1. 79–09740
2. 17–067–20294
3. 108
4. Pennzoil Producing Company
5. Crossett Tbr & Dev Co No 176
6. Monroe
7. Morehouse, LA
8. 5.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co

1. 79–09741
2. 17–075–22355
3. 103
4. Gulf Oil Corporation
5. S L 195 QQ #280–D Quarantine Bay
6. Quarantine Bay
7. Plaquemines, LA
8. 28.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co

1. 79–09742
2. 17–075–22355
3. 103
4. Gulf Oil Corporation
5. S L 195 QQ #280
6. Quarantine Bay
7. Plaquemines, LA
8. 18.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co

1. 79–09743
2. 17–075–22518
3. 103
4. Gulf Oil Corporation
5. SL 195 QQ #290–
6. Quarantine Bay
7. Plaquemines, LA
8. 80.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co

1. 79–09744
2. 17–075–22444
3. 103
4. Gulf Oil Corporation
5. K–2 RB Sub Bradish-Johnson #8
6. Diamond
7. Plaquemines, LA
8. 135.0 million cubic feet
9. June 21, 1979
10. Southern Natural Gas Co

1. 79–09745
2. 17–075–22441
3. 103
4. Gulf Oil Corporation
5. VU 93A Bld D #15
6. South Pass Blk 24
7. Plaquemines, LA
8. 17.3 million cubic feet
9. June 21, 1979
10. Southern Natural Gas Co

1. 79–09746
2. 17–726–20143
3. 103
4. Kerr-McGee Corporation
5. S L 1227 #X–1
6. Breton Sound Block 32
7. Plaquemines, LA
8. 2.2 million cubic feet
9. June 21, 1979
10. Southern Natural Gas Company

1. 79–09747

2. 17–109–21895
3. 103
4. Ladd Petroleum Corporation
5. Smyth John Metal #1
6. Mosquito Bay W
7. Terrebonne, LA
8. 127.0 million cubic feet
9. June 21, 1979
10. Transcontinental Gas Pipeline Corp

1. 79–09748
2. 17–109–21863
3. 102 103
4. Union Texas Petroleum
5. L D Riggs No 6
6. Humphrey
7. Terrebonne, LA
8. 2187.0 million cubic feet
9. June 21, 1979
10. Transcontinental Gas Pipeline Corp

1. 79–09749
2. 17–109–22125
3. 103
4. Louisiana Land and Exploration Co
5. LL&E Fee #2—162536
6. Bayou Jean La Croix
7. Terrebonne, LA
8. 730.0 million cubic feet
9. June 21, 1979
10.

1. 79–09750
2. 17–007–20224
3. 103
4. American Quasar Petroleum Co
5. Brownell Kidd #1
6. Sec 12–13S–12E
7. Assumption, LA
8. 1095.0 million cubic feet
9. June 21, 1979
10. Dow Chemical Co

1. 79–09751
2. 17–719–20252
3. 103
4. Gulf Oil Corporation
5. Vue Bld Harvey Aber #2
6. West Delta Blk 52
7. Plaquemines, LA
8. 33.0 million cubic feet
9. June 21, 1979
10. Tennessee Gas Pipelines

1. 79–09752
2. 17–101–21095
3. 107
4. Quintana Petroleum Corp
5. GC MA–10 Ra So Maryland #8
6. Garden City
7. St Mary, LA
8. 5110.0 million cubic feet
9. June 21, 1979
10. Columbia Gas Transmission Corp, United Gas Pipeline Co, Michigan Wisconsin Pipeline Co

1. 79–09753
2. 17–111–21386
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #669 Ser #158840
6. Monroe Gas Field
7. Union Parish, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09754
2. 17–111–21393
3. 103
4. Mid Louisiana Gas Company
5. MLGC Fee Gas #680 Ser #158848
6. Monroe Gas Field
7 Union Parish, LA
8. 28.5 million cubic feet
9. June 21, 1979
10. Mid Louisiana Gas Company

1. 79–09755
2. 17–109–22032
3. 107
4. Exchange Oil & Gas Corporation
5. Harry Bourg Corp No 1
6. Bayou Sauveur
7. Terrebonne Parish, LA
8. .0 million cubic feet
9. June 21, 1979
10.

1. 79–09756
2. 17–077–21089
3. 107
4. Chevron USA Inc
5. L Tusc Ra Sub Leblanc-Lejeune #1
6. Judge Digby
7 Pointe Coupee, LA
8. 1862.0 million cubic feet
9. June 21, 1979
10. Sugar Bowl Gas Corp

1. 79–09757
2. 17–109–21950
3. 103
4. The Louisiana Land & Exploration Co
5. S/L 301 Terrebonne #346—111492
6. Caillou Island
7. Terrebonne, LA
8. 198.0 million cubic feet
9. June 21, 1979
10. Texas Eastern Transmission Corp

1. 79–09758
2. 17–109–21911
3. 102
4. The Louisiana Land & Exploration Co
5. S/L 301 Terrebonne Bay #342—15553
6. Caillou Island
7. Terrebonne, LA
8. 141.0 million cubic feet
9. June 21, 1979
10. Texas Eastern Transmission Corp

1. 79–09759
2. 17–077–20187
3. 107
4. Chevron USA Inc
5. 19800 Tusc Ra Sud E R Boudreaux #1
6. False River
7. Pointe Coupee, LA
8. 5100.0 million cubic feet
9. June 21, 1979
10. Sugar Bowl Gas Corp

1. 79–09760
2. 17–077–20175
3. 107
4. Chevron US Inc
5. 19800 Tusc Rasub Alma Plantation #2
6. False River
7. Pointee Coupee, LA
8. 5957.0 million cubic feet
9. June 21, 1979
10. Sugar Bowl Gas Corporation

1. 79–09761
2. 17–075–22259
3. 102
4. Edwin L Cox
5. Bradish Johnson #13
6. Magnolia
7. Plaquemines, LA
8. 50.0 million cubic feet
9. June 21, 1979
10. Southern Natural Gas Company

1. 79–09762
2. 17–075–22580
3. 102
4. The Louisiana Land and Exploration
5. Tex X–1 Ra Su A LL&E—E Fasterling
6. Bastian Bay
7. Plaquemines, LA
8. 365.0 million cubic feet
9. June 21, 1979
10. United Gas Pipelines Company

1. 79–09763
2. 17–075–22296
3. 102
4. The Louisiana Land & Exploration Co
5. LL&E Fee No 1—154883
6. Bastian Bay
7. Plaquemines, LA
8. 365.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Co

1. 79–09764
2. 17–055–20123
3. 103
4. Geodynamics Oil & Gas
5. 10800 Ra Sua A Leblanc No 1D
6. Judice Field
7. Lafayette Parish, LA
8. 600.0 million cubic feet
9. June 21, 1979
10. Transcontinental Gas Pipeline Co

1. 79–09765
2. 17–001–20666
3. 102
4. Hilliard Oil & Gas Inc
5. P L Lawrence Jr Et Al #1
6. Lawson Field
7. Acadia, LA
8. 75.0 million cubic feet
9. June 21, 1979
10. United Gas Pipe Line Company

1. 79–09766
2. 17–725–20190
3. 103
4. Kerr-McGee Corporation
5. State Lease 1273 Well No 6
6. Main Pass Block 47
7. Plaquemines, LA
8. 779.0 million cubic feet
9. June 21, 1979
10. Southern Natural Gas Company

1. 79–09767
2. 17–726–20147
3. 103
4. Kerr-McGee Corporation
5. State Lease 4409 Well No 11–D
6. Breton Sound Block 37
7. Plaquemines, LA
8. 311.0 million cubic feet
9. June 21, 1979
10. Southern Natural Gas Company

1. 79–09768
2. 17–057–21493
3. 102
4. Patrick Petroleum Corporation
5. Rob 43 Stray Sand Ra Su Ayo No 1
6. Lake Boeuf
7. Lafourche Parish, LA
8. 100.0 million cubic feet
9. June 21, 1979
10.

1. 79-09769
2. 17-047-20522
3. 102
4. Lea Exploration Inc
5. A Wilbert & Sons Lumber Company No 1
6. Northwest Bayou Choctaw
7. Iberville, LA
8. 250.0 million cubic feet
9. June 21, 1979
10. Florida Gas Transmission Co

1. 79-09780
2. 17-053-01004
3. 108
4. Gulf Oil Corporation
5. Vua/Hayes U1 #6
6. Hayes
7. Calcasieu, LA
8. 10.0 million cubic feet
9. June 21, 1979
10. United Gas Pipeline Company

Mississippi Oil and Gas Board

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. 79-09770
2. 23-091-20063
3. 102 103
4. Harkins & Company
5. J. C. Williamson No 1 well
6. Greens Creek
7. Jefferson Davis, MS
8. 2000.0 million cubic feet
9. June 1, 1979
10. Transcontinental Gas Pipeline

1. 79-09771
2. 23-077-20018
3. 107
4. Enserch Exploration Inc
5. Navie Goode No 1
6. Monicello (Hosston)
7. Lawrence, MS
8. 175.0 million cubic feet
9. June 15, 1979
10. United Gas Pipeline Company

1. 79-09772
2. 23-127-20036
3. 103
4. Transcontinental Oil Corporation
5. L A Harris Jr. No 23-6 No 1
6. Oak Grove
7. Simpson, MS
8. 547.5 million cubic feet
9. June 15, 1979
10. System Fuels Inc

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. 79-09681
2. 30-039-05084-0000-0
3. 108
4. Sherman F Wagenseller
5. Mobil Apache #9
6. South Blanco PC
7. Rio Arriba, NM
8. 10.4 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79-09682
2. 30-039-05069-0000-0
3. 108
4. Sherman F Wagenseller
5. Mobil Apache #8
6. South Blanco PC
7. Rio Arriba NM
8. 4.8 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79-09683
2. 30-039-00000-0000-0
3. 108
4. Sherman F Wagenseller
5. Mobil Apache #2
6. South Blanco PC
7. Rio Arriba NM
8. 18.0 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Co

1. 79-09684
2. 30-030-08230-0000-0
3. 108
4. Sherman F Wagenseller
5. Mobil Apache #12
6. South Blanco PC
7. Rio Arriba NM
8. 9.8 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79-09685
2. 30-030-82237-0000-0
3. 108
4. Sherman F Wagenseller
5. Mobil Apache #7
6. South Blanco PC
7. Rio Arriba NM
8. 18.1 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79-09686
2. 30-039-20224-0000-0
3. 108
4. Sherman F Wagenseller
5. Mobil Apache #13
6. South Blanco PC
7. Rio Arriba NM
8. 18.3 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79-09687
2. 30-039-00000-0000-0
3. 108
4. Sherman F Wagenseller
5. Mobil Apache #3
6. South Blanco PC
7. Rio Arriba NM
8. 6.9 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79-09688
2. 30-039-00000-0000-0
3. 108
4. Colonial Production Company
5. Jicarilla Apache—44 Skelly #2
6. Ballard Pictured Cliff
7. Rio Arriba Co NM
8. 16.0 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79-09689
2. 30-045-13205-0000-0
3. 108
4. Southland Royalty Co
5. Cooper #2
6. Fulcher Kutz Pictured Cliffs
7. San Jaun NM
8. 3.0 million cubic feet
9. June 21, 1979
10. Southern Union Gathering Co

1. 79-09690
2. 30-039-20339-0000-0
3. 108
4. Southland Royalty Co
5. Creek #1
6. Blanco MV
7. Rio Arriba NM
8. 10.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corp

1. 79-09691
2. 30-045-10376-0000-0
3. 108
4. Southland Royalty Co
5. Thompson #8
6. Basin Dakota
7. San Jaun NM
8. 5.0 million cubic feet
9. June 21, 1979
10. Southern Union Gathering Co

1. 79-09692
2. 30-045-20449-0000-0
3. 108
4. Southland Royalty Co
5. Pierce #5
6. Blanco Pictured Cliffs
7. San Jaun NM
8. 9.0 million cubic feet
9. June 21, 1979
10. Southern Union Gathering Co

1. 79-09693
2. 30-045-11663-0000-0
3. 108
4. Southland Royalty Co
5. NYE #14
6. Basin Dakota
7. San Jaun NM
8. 12.0 million cubic feet
9. June 21, 1979
10. Southern Union Gathering Co

1. 79-09694
2. 30-045-07409-0000-0
3. 108
4. Southland Royalty Co
5. Robinson #3
6. Basin Dakota
7. San Jaun NM
8. 1.0 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Co

1. 79-09695
2. 30-045-09819-0000-0
3. 108
4. Southland Royalty Co
5. NYE #8
6. Aztec Pictured Cliffs

7. San Jaun NM
8. 3.0 million cubic feet
9. June 21, 1979
10. Southern Union Gathering

1. 79–09696
2. 30–025–11595–0000–0
3. 108
4. El Paso Natural Gas Company
5. Langlie Fed 1
6. Langlie-Mattix (Seven Rivers)
7. Lea NM
8. 11.0 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09697
2. 30–039–20193–0000–0
3. 108
4. Jerome P McHugh
5. Nordhaus #4
6. Ballard Pictured Cliffs
7. Rio Ariba NM
8. 15.0 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09698
2. 30–039–20195–0000–0
3. 108
4. Jerome P McHugh
5. Nordhaus #6
6. Ballard Pictured Cliffs
7. Rio Arriba NM
8. 21.0 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09699
2. 30–039–20194–0000–0
3. 108
4. Jerome P McHugh
5. Nordhaus #5
6. Ballard Pictured Cliffs
7. Rio Arriba NM
8. 10.0 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09700
2. 30–039–05074–0000–0
3. 108
4. Lionel R Levinson
5. Pubco Apache #1
6. South Blanco PC
7. Rio Arriba, NM
8. 14.3 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09701
2. 30–039–05059–0000–0
3. 108
4. Sherman E Wagenseller
5. Mobil Apache #10
6. South Blanco PC
7. Rio Arriba NM
8. 2.0 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company.

1. 79–09702
2. 30–039–00000–0000–0
3. 108
4. Colonial Production Company
5. Jicarilla Apache 362–1 #5
6. Ballard Pictured Cliff
7. Rio Arriba NM
8. 3.5 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09703
2. 30–039–00000–0000–0
3. 108
4. Colonial Production Company
5. Jicarilla Apache 362–1 #7
6. Ballard Pictured Cliff
7. Rio Arriba NM
8. 7.5 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09704
2. 30–039–00000–0000–0
3. 108
4. Colonial Production Company
5. Jicarilla Apache 398 #10
6. Ballard Pictured Cliff
7. Rio Arriba NM
8. 4.3 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09705
2. 30–039–00000–0000–0
3. 108
4. Colonial Production Company
5. Jicarilla Apache 398 #9
6. Ballard Pictured Cliff
7. Rio Arriba NM
8. 4.0 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09706
2. 30–039–00000–0000–0
3. 108
4. Colonial Production Company
5. Jicarilla Apache 362–1 #8
6. Ballard Pictured Cliff
7. Rio Arriba NM
8. 2.4 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09707
2. 30–039–05293–0000–0
3. 108
4. Trans Delta Oil & Gas Co Inc
5. Harrington Federal 4
6.
7. Rio Arriba NM
8. 13.1 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09708
2. 30–039–05228–0000–0
3. 108
4. Trans Delta Oil & Gas Co Inc
5. Harrington Federal 5
6. South Blanco
7. Rio Arriba NM
8. 6.6 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09709
2. 30–039–05299–0000–0
3. 108
4. Trans Delta Oil & Gas Co Inc
5. Harrington Federal No 6
6. South Blanco
7. Rio Arriba NM
8. 10.8 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09710
2. 30–039–05188–0000–0
3. 108
4. Trans Delta Oil & Gas Co. Inc.
5. Jicarilla A 1
6. South Blanco
7. Rio Arriba, NM
8. 4.6 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09711
2. 30–039–05144–0000–0
3. 108
4. Trans Delta Oil & Gas Co. Inc.
5. Jicarilla A–2
6. South Blanco
7. Rio Arriba, NM
8. 5.1 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09712
2. 30–039–82312–0000–0
3. 108
4. Trans Delta Oil & Gas Co. Inc.
5. Jicarilla A–3
6. South Blanco
7. Rio Arriba, NM
8. 1.8 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09713
2. 30–039–82311–0000–0
3. 108
4. Trans Delta Oil & Gas Co. Inc.
5. Jicarilla A–4
6. South Blanco
7. Rio Arriba, NM
8. 8.9 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09714
2. 30–039–05166–0000–0
3. 108
4. Trans Delta Oil & Gas Co. Inc.
5. Jicarilla B–1
6. South Blanco
7. Rio Arriba, NM
8. 1.3 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09715
2. 30–039–05132–0000–0
3. 108
4. Trans Delta Oil & Gas Co. Inc.
5. Jicarilla B–3
6. South Blanco
7. Rio Arriba, NM
8. 7.3 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09716
2. 30–039–05075–0000–0
3. 108
4. Trans Delta Oil & Gas Co. Inc.
5. Jicarilla L–1
6. South Blanco
7. Rio Arriba, NM
8. 2.2 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09717
2. 30–039–82273–0000–0
3. 108
4. Trans Delta Oil & Gas Co. Inc.
5. Jicarilla L–2
6. South Blanco
7. Rio Arriba, NM
8. 11.8 million cubic feet

9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09718
2. 30–039–08067–0000–0
3. 108
4. Trans Delta Oil & Gas Co. Inc.
5. Jicarilla L–3
6. South Blanco
7. Rio Arriba, NM
8. 15.9 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09719
2. 30–039–82238–0000–0
3. 108
4. Trans Delta Oil & Gas Co. Inc.
5. Jicarilla L–4
6. South Blanco
7. Rio Arriba, NM
8. 6.5 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09720
2. 30–039–05102–0000–0
3. 108
4. Trans Delta Oil & Gas Co., Inc.
5. Jicarilla M–1
6. South Blanco
7. Rio Arriba, NM
8. 7.2 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09721
2. 30–039–05087–0000–0
3. 108
4. Trans Delta Oil & Gas Co., Inc.
5. Jicarilla M–2
6. South Blanco
7. Rio Arriba, NM
8. 18.1 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09722
2. 30–039–08146–0000–0
3. 108
4. Trans Delta Oil & Gas Co., Inc.
5. Jicarilla M–3
6. South Blanco
7. Rio Arriba, NM
8. 14.4 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09723
2. 30–039–05207–0000–0
3. 108
4. Trans Delta Oil & Gas Co., Inc.
5. Melik Federal 1
6. South Blanco
7. Rio Arriba, NM
8. .0 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09724
2. 30–039–05232–0000–0
3. 108
4. Trans Delta Oil & Gas Co., Inc.
5. Melik Federal 2
6. South Blanco
7. Rio Arriba, NM
8. 20.5 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09725
2. 30–039–05125–0000–0
3. 108
4. Trans Delta Oil & Gas Co., Inc.
5. Hall Federal 2
6. South Blanco
7. Rio Arriba, NM
8. 7.9 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09726
2. 30–045–22627–0000–0
3. 103
4. Dugan Production Corp.
5. Western Federal #7
6. Gallegos Fruitland-S
7. San Juan, NM
8. 17.9 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

1. 79–09727
2. 30–045–10637–0000–0
3. 108
4. Southland Royalty Co.
5. East #6
6. Basin Dakota
7. San Juan, NM
8. 14.0 million cubic feet
9. June 21, 1979
10. Southern Union Gathering Co.

1. 79–09728
2. 30–045–20517–0000–0
3. 108
4. Southland Royalty Co.
5. Cooper #5
6. Fulcher Kutz Pictured Cliffs
7. San Juan, NM
8. 9.0 million cubic feet
9. June 21, 1979
10. Southern Union Gathering Co.

1. 79–09729
2. 30–045–209742–0000–0
3. 108
4. Southland Royalty Co.
5. Davis #16
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 10.0 million cubic feet
9. June 21, 1979
10. Southern Union Gathering Co.

1. 79–09730
2. 30–045–20479–0000–0
3. 108
4. Southland Royalty Co.
5. Crandell #3
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 14.0 million cubic feet
9. June 21, 1979
10. Southern Union Gathering Co.

1. 79–09731
2. 3–045–20534–0000–0
3. 108
4. Southland Royalty Co.
5. Crandell #4
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 12.0 million cubic feet
9. June 21, 1979
10. Southern Union Gathering Co.

1. 79–09773
2. 30–039–20196–0000–0
3. 108
4. Jerome P. McHugh
5. Nordhaus #7
6. Ballard Pictured Cliffs
7. Rio Arriba, NM
8. 15.0 million cubic feet
9. June 21, 1979
10. El Paso Natural Gas Company

U.S. Geological Survey, Casper, Wyo.

1. Control number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–09774
2. 05–103–08132–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 8–7
6. Dragon Trail
7. Rio Blanco, CO
8. 85.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09775
2. 05–103–08079–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 6–32
6. Dragon Trail
7. Rio Blanco, CO
8. 109.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09776
2. 05–103–08078–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 10–6
6. Dragon Trail
7. Rio Blanco, CO
8. 70.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09779
2. 05–123–07979–0000–0
3. 102
4. Asamera Oil U.S. Inc
5. Littler-Von Hazmburg No. 1
6. Wildcat
7. Weld, CO
8. 73.0 million cubic feet
9. June 21, 1979
10. Crystal Gas Resources

1. 79–09781
2. 05–103–08274–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 1–22–1–2
6. North Douglas Creek
7. Rio Blanco, CO
8. 447.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09782
2. 05–103–08283–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 3–22–1–2
6. North Douglas Creek
7. Rio Blanco, CO

8. 365.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09811
2. 05–045–06105–0000–0
3. 103
4. Fuel Resources Development Co
5. No. 1–12 Federal
6. South Canyon
7. Garfield, CO
8. 19.0 million cubic feet
9. June 21, 1979
10. Western Slope Gas Company

1. 79–09817
2. 05–081–63070–0000–0
3. 103
4. Mountain Fuel Supply Company
5. Hiawatha 25-Wilson
6. East Hiawatha
7. Moffat, CO
8. 61.4 million cubic feet
9. June 21, 1979
10. Mountain Fuel Supply Company

1. 79–09818
2. 05–103–82230–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 6–11–1–2
6. Dragon Trail
7. Rio Blanco, CO
8. 58.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09843
2. 05–103–08286–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 6–18–1–1
6. N Douglas Creek
7. Rio Blanco, CO
8. 120.0 million cubic feet
9. June 21, 1979
10. Western Slope Gas Co

1. 79–09844
2. 05–103–08222–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 14–11–1–2
6. Dragon Trail
7. Rio Blanco, CO
8. 98.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09845
2. 05–103–08230–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 6–15–1–2
6. Dragon Trail
7. Rio Blanco, CO
8. 51.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09846
2. 05–103–08228–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 2–15–1–2
6. Dragon Trail
7. Rio Blanco, CO
8. 100.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09847
2. 05–103–08231–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 7–11–1–2
6. Dragon Trail
7. Rio Blanco, CO
8. 51.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09848
2. 05–103–08226–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 9–15–1–2
6. Dragon Trail
7. Rio Blanco, CO
8. 169.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09849
2. 05–103–08227–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 11–15–1–2
6. Dragon Trail
7. Rio Blanco, CO
8. 116.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09850
2. 05–103–07890–0000–0
3. 102
4. Mobil Oil Corporation
5. Piceance Creek F31–13G USA
6. Piceance Creek
7. Rio Blanco, CO
8. 500.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09855
2. 05–103–08288–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 11–18–1–1
6. N Douglas Creek
7. Rio Blanco, CO
8. 175.0 million cubic feet
9. June 21, 1979
10. Western Slope Gas Co

1. 79–09856
2. 05–103–08289–0000–0
3. 103
4. Chandler & Associates Inc.
5. Fork Unit 16–18–1–1
6. N Douglas Creek
7. Rio Blanco, CO
8. 114.0 million cubic feet
9. June 21, 1979
10. Western Slope Gas Co

1. 79–09869
2. 05–103–08070–0000–0
3. 102
4. Fuel Resources Development Co
5. No. 23–1 Federal
6. Cathedral
7. Rio Blanco, CO
8. 55.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09885
2. 05–045–06115–0000–0
3. 103
4. Coseka Resources (USA) Ltd
5. Taiga Federal 2–E–24
6. Twin Buttes
7. Garfield, CO
8. 36.5 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09886
2. 05–103–08025–0000–0
3. 103
4. Coseka Resources (USA) Limited
5. Taiga Federal 2–F–20
6. Thunder
7. Rio Blanco, CO
8. 66.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09887
2. 05–103–08085–0000–0
3. 103
4. Coseka Resources (USA) Ltd
5. Taiga Federal 14–I–20
6. Thunder
7. Rio Blanco, CO
8. 37.2 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09888
2. 05–103–08086–0000–0
3. 103
4. Coseka Resources (USA) Limited
5. Taiga Federal 7–F–21
6. Thunder
7. Rio Blanco, CO
8. 43.4 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09892
2. 05–103–08071–0000–0
3. 102
4. Fuel Resources Development Co
5. No 26–2 Federal
6. Cathedral
7. Rio Blanco, CO
8. 120.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79–09789
2. 25–025–21123–0000–0
3. 103
4. Shell Oil Company
5. Pennel 11X–14
6. Pennel
7. Fallon, MT
8. 10.0 million cubic feet
9. June 21, 1979
10. Montana-Dakota Utilities

1. 79–09800
2. 25–071–21559–0000–0
3. 102
4. Midlands Gas Corporation
5. 2042 No. 1 Federal
6. Bowdoin
7. Phillips, MT
8. 12.0 million cubic feet
9. June 21, 1979
10. Kansas-Nebraska Natural Gas Co, Inc

1. 79–09801
2. 25–071–21548–0000–0
3. 102
4. Midlands Gas Corporation
5. 0561 Federal 0561–1
6. Bowdoin
7. Phillips, MT
8. 84.0 million cubic feet

9. June 21, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 79–09802
2. 25–071–21547–0000–0
3. 102
4. Midlands Gas Corporation
5. 0261 No. 1–2 USA Wolf & Miami
6. Bowdoin
7. Phillips, MT
8. 84.0 million cubic feet
9. June 21, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 79–09807
2. 25–071–21387–0000–0
3. 102
4. Midlands Gas Corporation
5. 3570 No. 1 Federal
6. Bowdoin
7. Phillips, MT
8. 36.0 million cubic feet
9. June 21, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 79–09809
2. 25–071–21260–0000–0
3. 102
4. Midlands Gas Corporation
5. 1761 No. 1 Federal
6. Bowdoin
7. Phillips, MT
8. 36.0 million cubic feet
9. June 21, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 79–09880
2. 26–033–21808–0000–0
3. 103
4. Marathon Oil Company
5. Marathon Government No. 10–36
6. West Engelland
7. Chevenne, NB
8. 16.0 million cubic feet
9. June 21, 1979
10. Kansas-Nebraska Natural Gas Co Inc

1. 79–09785
2. 33–053–00718–0000–0
3. 103
4. Amerada Hess Corporation
5. USA Volkmann No. 1X
6. Charlson
7. McKenzie, ND
8. 328.0 million cubic feet
9. June 21, 1979
10. Montana Dakota Utilities Co

1. 79–09871
2. 33–053–00712–0000–0
3. 102
4. Brownlie Wallace Armstrong & Bander
5. Federal No. 20–31
6. Mondak
7. McKenzie, ND
8. 11.2 million cubic feet
9. June 21, 1979
10. Montana Dakota Utilities Co

1. 79–09872
2. 33–053–00781–0000–0
3. 102
4. Brownlie Wallace Armstrong & Bander
5. Federal No. 23–31
6. Mondak
7. McKenzie, ND
8. 12.0 million cubic feet
9. June 21, 1979
10. Montana Dakota Utilities Co

1. 79–09873
2. 33–053–00694–0000–0
3. 102
4. Brownlie Wallace Armstrong & Bander
5. Federal No. 11–23
6. Mondak
7. McKenzie, ND
8. 22.0 million cubic feet
9. June 21, 1979
10. Montana Dakota Utilities Co

1. 79–09874
2. 33–053–00789–0000–0
3. 102
4. Brownlie Wallace Armstrong & Bander
5. Federal No. 14–31
6. Mondak
7. McKenzie, ND
8. 33.0 million cubic feet
9. June 21, 1979
10. Montana Dakota Utilities Co

1. 79–09875
2. 33–053–00695–0000–0
3. 102
4. Brownlie Wallace Armstrong & Bander
5. Federal No. 15–43
6. Mondak
7. McKenzie, ND
8. 8.0 million cubic feet
9. June 21, 1979
10. Montana Dakota Utilities Co

1. 79–09876
2. 33–053–00713–0000–0
3. 102
4. Brownlie Wallace Armstrong & Bander
5. Federal No. 18–11
6. Mondak
7. McKenzie, ND
8. 3.1 million cubic feet
9. June 21, 1979
10. Montana Dakota Utilities Co

1. 79–09877
2. 33–053–00756–0000–0
3. 102
4. Brownlie Wallace Armstrong & Bander
5. Federal No. 14–24
6. Mondak
7. McKenzie, ND
8. 8.0 million cubic feet
9. June 21, 1979
10. Montana Dakota Utilities Co

1. 79–09878
2. 33–053–00780–0000–0
3. 102
4. Brownlie Wallace Armstrong & Bander
5. Federal No. 10–31X
6. Mondak
7. McKenzie, ND
8. 10.0 million cubic feet
9. June 21, 1979
10. Montana Dakota Utilities Co

1. 79–09879
2. 33–053–00811–0000–0
3. 102
4. Brownlie Wallace Armstrong & Bander
5. Federal No. 24–14
6. Mondak
7. McKenzie, ND
8. 22.0 million cubic feet
9. June 21, 1979
10. Montana Dakota Utilities Co

1. 79–09857
2. 49–005–24644–0000–0
3. 103
4. Exxon Corporation
5. Johnson Federal Well No. 1
6. Hartzog Draw
7. Campbell, WY
8. 18.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company

1. 79–09790
2. 43–047–30462–0000–0
3. 103
4. Gas Producing Enterprises Inc
5. NBU 58–23830462
6. Natural Buttes Unit
7. Uintah, UT
8. 10.0 million cubic feet
9. June 21, 1979
10. Colorado Interstate Gas Co

1. 79–09799
2. 43–047–30280–0000–0
3. 102
4. Pacific Transmission Supply Co
5. Pts 44–5 Federal
6. Devils Playground—South Red Wash
7. Uintah, UT
8. .0 million cubic feet
9. June 21, 1979
10. Mountain Fuel Supply Company

1. 79–09806
2. 43–013–30420–0000–0
3. 103
4. Diamond Shamrock Corporation
5. UTE 1–22B6
6. Altamont
7. Duchesne, UT
8. 34.0 million cubic feet
9. June 21, 1979
10.

1. 79–09853
2. 43–047–30420–0000–0
3. 103
4. Gas Producing Enterprises Inc
5. Natural Buttes 13–7–10–21
6. Bitter Creek
7. Uintah, UT
8. 183.0 million cubic feet
9. June 21, 1979
10. Colorado Interstate Gas Co

1. 79–09854
2. 43–047–30490–0000–0
3. 103
4. Gas Producing Enterprises Inc
5. Natural Buttes 15–8–10–22
6. Bitter Creek
7. Uintah, UT
8. 101.0 million cubic feet
9. June 21, 1979
10. Colorado Interstate Gas Co

1. 79–09864
2. 43–047–30484–0000–0
3. 103
4. Gas Producing Enterprises Inc
5. Natural Buttes 14–9–10–22
6. Bitter Creek
7. Uintah, UT
8. 128.0 million cubic feet
9. June 21, 1979
10. Colorado Interstate Gas Co

1. 79–09777
2. 49–037–20675–0000–0
3. 102
4. Texaco Inc.
5. Table Rock Unit Well No. 21
6. Table Rock
7. Sweetwater, WY
8. 1800.0 million cubic feet
9. June 21, 1979

10. Colorado Interstate Gas Company
1. 79-09778
2. 49-037-20875-0000-0
3. 102
4. Texaco Inc.
5. Table Rock Unit Well No. 22
6. Table Rock
7. Sweetwater, WY
8. 4600.0 million cubic feet
9. June 21, 1979
10. Colorado Interstate Gas Company
1. 79-09783
2. 49-037-20274-0000-0
3. 102
4. Texaco Inc.
5. Govt. Union Oil Well No. 1
6. Robbin
7. Sweetwater, WY
8. .0 million cubic feet
9. June 21, 1979
10. Colorado Interstate Gas
1. 79-09784
2. 49-035-20469-0000-0
3. 103
4. Belco Petroleum Corporation
5. Saddle Ridge Bng 104-33 20469
6. Saddle Ridge
7. Sublette, WY
8. .0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation
1. 79-09786
2. 49-037-20860-0000-0
3. 102
4. Davis Oil Company
5. Hay Reservoir Unit 6
6. Hay Reservoir
7. Sweetwater, WY
8. 1100.0 million cubic feet
9. June 21, 1979
10. Panhandle Eastern Pipeline Co.
1. 79-09787
2. 49-019-20386-0000-0
3. 102
4. Davis Oil Company
5. Table Mountain #2
6. Table Mountain Field
7. Johnson, WY
8. 27.3 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79-09788
2. 49-013-20764-0000-0
3. 103
4. Shell Oil Company
5. Unit 44-15
6. Pavillion
7. Fremont, WY
8. 491.0 million cubic feet
9. June 21, 1979
10. Montana-Dakota Utilities
1. 79-09791
2. 49-035-20468-0000-0
3. 103
4. Belco Petroleum Corporation
5. Saddle Ridge Bng 103-33 20468
6. Saddle Ridge
7. Sublette, WY
8. .0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation
1. 79-09792
2. 49-035-20443-0000-0
3. 103
4. Belco Petroleum Corporation
5. Saddle Ridge Bng 103-33 20443
6. Saddle Ridge
7. Sublette, WY
8. .0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation
1. 79-09793
2. 49-035-20473-0000-0
3. 103
4. Belco Petroleum Corporation
5. Saddle Ridge Bng 106-4 20473
6. Saddle Ridge
7. Sublette, WY
8. .0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation
1. 79-09794
2. 49-019-20476-0000-0
3. 102
4. Davis Oil Company
5. Heldt Draw Unit #56
6. Table Mountain Field
7. Johnson, WY
8. 21.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79-09795
2. 49-037-21254-0000-0
3. 102
4. Davis Oil Company
5. Janet Federal #1
6. Echo Springs
7. Sweetwater, WY
8. 1100.0 million cubic feet
9. June 21, 1979
10. Panhandle Eastern Pipe Line Company
1. 79-09796
2. 49-005-24536-0000-0
3. 102
4. Davis Oil Company
5. U W Federal #1
6. Hartzog
7. Campbell, WY
8. 30.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79-09797
2. 49-023-14526-0000-0
3. 108
4. Pacific Transmission Supply Co.
5. PTS 31-34 Federal
6. Fontenelle
7. Lincoln, WY
8. 14.0 million cubic feet
9. June 21, 1979
10. Pacific Gas Transmission Company
1. 79-09798
2. 49-023-20195-0000-0
3. 103
4. Pacific Transmission Supply Co.
5. PTS 32-2 Federal
6. Fontenelle
7. Lincoln, WY
8. 22.9 million cubic feet
9. June 21, 1979
10. Pacific Gas Transmission Company
1. 79-09803
2. 49-005-24588-0000-0
3. 102
4. Davis Oil Company
5. W H G Federal #3
6. Hartzog Draw
7. Campbell, WY
8. 26.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79-09804
2. 49-005-24950-0000-0
3. 103
4. Davis Oil Company
5. Union Federal #1
6. Jayson
7. Campbell, WY
8. 132.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79-09805
2. 49-045-21153-0000-0
3. 103
4. Davis Oil Company
5. Toad Federal #1
6. Todd
7. Weston, WY
8. 13.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79-09808
2. 49-035-20470-0000-0
3. 103
4. Belco Petroleum Corporation
5. Saddle Ridge Bng 105-4 20470
6. Saddle Ridge
7. Sublette, WY
8. .0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation
1. 79-09810
2. 49-037-20892-0000-0
3. 102
4. C & K Petroleum Inc
5. Lincoln Road Unit No. 1
6. Lincoln Road Unit
7. Sweetwater, WY
8. 750.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation, Colorado Interstate Gas Co., Thermal Exploration Inc., IGC Production Co.
1. 79-09812
2. 49-037-24096-0000-0
3. 102
4. Texas Oil & Gas Corp
5. Federal Q #1
6. Bush Lake
7. Sweetwater, WY
8. 365.0 million cubic feet
9. June 21, 1979
10. Western Transmission Corp
1. 79-09813
2. 49-037-21238-0000-0
3. 103
4. Texas Oil & Gas Corp
5. Federal R #1
6. Antelope
7. Sweetwater, WY
8. 182.5 million cubic feet
9. June 21, 1979
10. Colorado Interstate Gas Co
1. 79-09814
2. 49-029-06010-0000-0
3. 108
4. Continental Oil
5. South Elk Basin Unit #27
6. South Elk Basin SW 32-T57N-R99W
7. Park, WY
8. 3.5 million cubic feet

9. June 21, 1979
10. Montana-Dakota Utilities

1. 79-09815
2. 49-029-06018-0000-0
3. 108
4. Continental Oil
5. South Elk Basin Unit #26
6. South Elk Basin Unit NW 32-T57N-R99
7. Park, WY
8. 15.2 million cubic feet
9. June 21, 1979
10. Montana-Dakota Utilities

1. 79-09816
2. 49-013-20670-0000-0
3. 102
4. Husky Oil Company
5. Fuller Reservoir II Unit #41-25
6. Fuller Reservoir
7. Fremont, WY
8. 338.2 million cubic feet
9. June 21, 1979
10. Panhandle Eastern Pipe Line Co

1. 79-09819
2. 49-035-20478-0000-0
3. 103
4. Mountain Fuel Supply Company
5. Dry Piney #27
6. Dry Piney
7. Sublette, WY
8. 255.5 million cubic feet
9. June 21, 1979
10. Mountain Fuel Supply Company

1. 79-09820
2. 49-035-20465-0000-0
3. 103
4. Belco Petroleum Corporation
5. BNG 102-33 20465
6. Saddle Ridge
7. Sublette, WY
8. .0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline Corporation

1. 79-09821
2. 49-035-20428-0000-0
3. 103
4. Apache Corporation
5. Bird Canyon Federal No 2-23
6. Bird Canyon
7. Sublette, WY
8. 183.0 million cubic feet
9. June 21, 1979
10. Northwest Pipeline

1. 79-09822
2. 49-035-20368-0000-0
3. 103
4. Chevron USA Inc
5. Birch Creek Unit 98
6. Birch Creek
7. Sublette, WY
8. 621.0 million cubic feet
9. June 21, 1979
10. Mountain Fuel Supply Co

1. 79-09823
2. 49-035-20367-0000-0
3. 103
4. Chevron USA Inc
5. Birch Creek Unit 99
6. Birch Creek
7. Sublette, WY
8. 2847.0 million cubic feet
9. June 21, 1979
10. Mountain Fuel Supply Co

1. 79-09824
2. 49-025-21035-0000-0
3. 103
4. Chevron USA Inc
5. Waltman Unit 13
6. Waltman
7. Natrona, WY
8. 211.0 million cubic feet
9. June 21, 1979
10. Kansas-Nebraska Natural Gas Company

1. 79-09825
2. 49-009-21297-0000-0
3. 103
4. Mitchell Energy Corporation
5. Federal 3-11 W-28640
6. Mikes Draw
7. Converse, WY
8. 11.2 million cubic feet
9. June 21, 1979
10. Liquid Energy Corporation

1. 79-09826
2. 49-009-21348-0000-0
3. 103
4. Mitchell Energy Corporation
5. Federal 1-3 W-33295
6. Mikes Draw
7. Converse, WY
8. 4.3 million cubic feet
9. June 21, 1979
10. Liquid Energy Corporation

1. 79-09827
2. 49-009-21349-0000-0
3. 103
4. Mitchell Energy Corporation
5. Federal 2-3 W-33295
6. Mikes Draw
7. Converse, WY
8. 7.8 million cubic feet
9. June 21, 1979
10. Liquid Energy Corporation

1. 79-09828
2. 49-005-24583-0000-0
3. 102
4. Davis Oil Company
5. W H G Federal #2
6. Hartzog Draw
7. Campbell, WY
8. 45.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company

1. 79-09829
2. 49-005-24584-0000-0
3. 102
4. Davis Oil Company
5. A M Federal G-2
6. Hartzog Draw
7. Campbell, WY
8. 16.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company

1. 79-09831
2. 49-005-24564-0000-0
3. 102
4. Davis Oil Company
5. A J Federal #2
6. Hartzog Draw
7. Campbell, WY
8. 9.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company

1. 79-09832
2. 49-037-21129-0000-0
3. 102
4. Davis Oil Company
5. Hay Reservoir Unit 14
6. Hay Reservoir
7. Sweetwater, WY
8. 320.0 million cubic feet
9. June 21, 1979
10. Panhandle Eastern Pipe Line Company

1. 79-09833
2. 49-037-21204-0000-0
3. 102
4. Davis Oil Company
5. Hay Reservoir Unit 16
6. Hay Reservoir
7. Sweetwater, WY
8. 320.0 million cubic feet
9. June 21, 1979
10. Panhandle Eastern Pipe Line Company

1. 79-09834
2. 49-005-24905-0000-0
3. 103
4. Davis Oil Company
5. U W Federal #3
6. Hartzog Draw
7. Campbell, WY
8. 48.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company

1. 79-09835
2. 49-037-21153-0000-0
3. 102
4. Davis Oil Company
5. Hay Reservoir Unit 19
6. Hay Reservoir
7. Sweetwater, WY
8. 400.0 million cubic feet
9. June 21, 1979
10. Panhandle Eastern Pipe Line Company

1. 79-09836
2. 49-019-20372-0000-0
3. 102
4. Davis Oil Company
5. Texitgo Federal #1
6. Table Mountain
7. Johnson, WY
8. 7.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company

1. 79-09837
2. 49-005-24675-0000-0
3. 103
4. Davis Oil Company
5. U W Federal #2
6. Hartzog
7. Campbell, WY
8. 6.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company

1. 79-09838
2. 49-009-21284-0000-0
3. 103
4. Mitchell Energy Corporation
5. Federal 1-14 W-8431
6. Mikes Draw
7. Converse, WY
8. 14.5 million cubic feet
9. June 21, 1979
10. Liquid Energy Corporation

1. 79-09839
2. 49-009-21304-0000-0
3. 103
4. Mitchell Energy Corporation
5. Federal 24-34 W-9101
6. Mikes Draw
7. Converse, WY
8. 1.9 million cubic feet
9. June 21, 1979

10. Liquid Energy Corporation
1. 79–09840
2. 49–009–21217–0000–0
3. 103
4. Mitchell Energy Corporation
5. Conoco Federal 1–1 W–5303
6. Dons Draw
7. Converse, WY
8. .1 million cubic feet
9. June 21, 1979
10. Liquid Energy Corporation
1. 79–09841
2. 49–009–21424–0000–0
3. 103
4. Mitchell Energy Corporation
5. Federal 44–33 W–9101
6. Mikes Draw
7. Converse, WY
8. 14.4 million cubic feet
9. June 21, 1979
10. Liquid Energy Corporation
1. 79–09842
2. 49–009–21278–0000–0
3. 103
4. Mitchell Energy Corporation
5. Federal 1–2 W–0315446
6. Mikes Draw
7. Converse, WY
8. .5 million cubic feet
9. June 21, 1979
10. Liquid Energy Corporation
1. 79–09851
2. 49–005–24668–0000–0
3. 102
4. Anderman Operating Company
5. Anderman-So Roy #1–6 Federal
6. Hartzog Draw
7. Campbell, WY
8. 7041.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79–09852
2. 49–009–21320–0000–0
3. 103
4. Petroleum Inc
5. Michigan Wisconsin Federal #1
6. Mikes Draw (Teapot)
7. Converse, WY
8. 24.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79–09858
2. 49–037–20960–0000–0
3. 102
4. Davis Oil Company
5. Hay Reservoir Unit 9
6. Hay Reservoir
7. Sweetwater WY
8. 1100.0 million cubic feet
9. June 21, 1979
10. Colorado Interstate Gas Company
1. 79–09859
2. 49–037–21069–0000–0
3. 102
4. Davis Oil Company
5. Hay Reservoir Unit 11
6. Hay Reservoir
7. Sweetwater WY
8. 1300.0 million cubic feet
9. June 21, 1979
10. Panhandle Eastern Pipe line Company
1. 79–09860
2. 49–009–21285–0000–0
3. 103
4. Mitchell Energy Corporation
5. Federal 1–13 W–0320568
6. Mikes Draw
7. Converse County WY
8. 14.7 million cubic feet
9. June 21, 1979
10. Liquid Energy Coporation
1. 79–09861
2. 49–009–21293–0000–0
3. 103
4. Mitchell Energy Corporation
5. Federal 4–11 W–28640
6. Mikes Draw
7. Converse WY
8. 9.3 million cubic feet
9. June 21, 1979
10. Liquid Energy Coporation
1. 79–09862
2. 49–009–21351–0000–0
3. 103
4. Mitchell Energy Corporation
5. Federal 2–21 DH W–0316151–8
6. Mikes Draw
7. Converse WY
8. 6545.0 million cubic feet
9. June 21, 1979
10. McCulloch Gas Processing Corporation
1. 79–09863
2. 49–009–21262–0000–0
3. 103
4. Mitchell Energy Corporation
5. Federal 1–23 W–8431
6. Mikes Draw
7. Converse WY
8. 12.6 million cubic feet
9. June 21, 1979
10. Liquid Energy Coporation
1. 79–09865
2. 49–005–24558–0000–0
3. 102
4. Woods Petroleum Corporation
5. Schlautmann Federal #15–1
6. Hartzog Draw
7. Campbell WY
8. 20.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79–09866
2. 49–005–24658–0000–0
3. 102
4. Woods Petroleum Corporation
5. Jordan Federal #15–2
6. Hartzog Draw
7. Campbell WY
8. 20.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79–09867
2. 49–005–24575–0000–0
3. 102
4. Woods Petroleum Corporation
5. Jordan Federal #15–1
6. Hartzog Draw
7. Campbell WY
8. 20.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79–09868
2. 49–005–24961–0000–0
3. 102
4. Woods Petroleum Corporation
5. Jordan Federal #8–2
6. Hartzog Draw
7. Campbell WY
8. 20.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79–09870
2. 49–009–21319–0000–0
3. 103
4. Petroleum Inc
5. Beard Federal #1
6. Mikes Draw Teapot
7. Converse WY
8. 12.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79–0981
2. 49–007–20334–0000–0
3. 102
4. Cig Exploration Inc
5. Cige Federal 1–20–17–93
6. Wild Rose
7. Carbon WY
8. 441.0 million cubic feet
9. June 21, 1979
10. Colorado Interstate Gas Co
1. 79–09882
2. 49–005–24576–0000–0
3. 102
4. Woods Petroleum Corporation
5. Schlautmann Federal #9–1
6. Hartzog Draw
7. Campbell WY
8. 20.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79–09883
2. 49–009–21224–0000–0
3. 103
4. Woods Petroleum Corporation
5. Dilts-Cooke Federal #1–1
6. Powell
7. Converse WY
8. 182.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79–09884
2. 49–009–21226–0000–0
3. 103
4. Woods Petroleum Corporation
5. Dilts Company Government #7–1
6. Powell
7. Converse WY
8. 73.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79–09889
2. 49–005–24557–0000–0
3. 102
4. Woods Petroleum Corporation
5. Jordan Federal #23–1
6. Hartzog Draw
7. Campbell WY
8. 20.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company
1. 79–09890
2. 49–005–24966–0000–0
3. 102
4. Woods Petroleum Corporation
5. Schlautmann Federal #9–3A
6. Hartzog Draw
7. Campbell WY
8. 20.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company

1. 79–09891
2. 49–005–24648–0000–0
3. 102
4. Woods Petroleum Corporation
5. Schlautmann Federal #9–4
6. Hartzog Draw
7. Campbell WY
8. 20.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company

1. 79–09830
2. 49–005–24565
3. 102
4. Davis Oil Company
5. A M Federal #1
6. Hartzog Draw
7. Campbell WY
8. 22.0 million cubic feet
9. June 21, 1979
10. Phillips Petroleum Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the commission on or before August 2, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–22199 Filed 7–17–79; 8:45 am]

BILLING CODE 6450–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

July 9, 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 (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–10128
2. 34–009–21924–0014
3. 103
4. Inland Drilling Co., Inc.
5. Seel #1 1924
6.
7. Athens, OH
8. .4 million cubic feet
9. June 22, 1979
10.

1. 79–10129
2. 34–103–22102–0014
3. 103
4. Broilco Inc.
5. Reusch #2
6.
7. Medina, OH
8. 30.0 million cubic feet
9. June 22, 1979
10.

1. 79–10130
2. 34–103–22100–0014
3. 103
4. Broilco Inc.
5. Reusch #1
6.
7. Medina, OH
8. 30.0 million cubic feet
9. June 22, 1979
10.

1. 79–10131
2. 34–103–22102–0014
3. 103
4. Broilco Inc.
5. Bambeck #1
6.
7. Medina, OH
8. 30.0 million cubic feet
9. June 22, 1979
10.

1. 79–10132
2. 34–153–20679–0014
3. 103
4. K S T Oil & Gas Co. Inc.
5. Carr-Fessler et al. #1
6.
7. Summit, OH
8. 36.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Co.

1. 79–10133
2. 34–127–24120–0014
3. 103
4. Quaker State Oil Refining Corp.
5. E Mahone #3 80169–3
6.
7. Perry, OH
8. 17.5 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10134
2. 34–007–20967–0014
3. 103
4. Meridian Oil & Gas Ent Inc.
5. F P Primiano Jr Well #2
6.
7. Ashtabula, OH
8. 12.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Co.

1. 79–10135
2. 34–083–22516–0014
3. 103
4. Marani Energy Co.
5. Workman #1
6.
7. Knox, OH
8. 12.0 million cubic feet
9. June 22, 1979
10.

1. 79–10136
2. 34–153–20687–0014
3. 103
4. K S T Oil & Gas Co. Inc.
5. Derewychuk #1
6.
7. Summit, OH
8. 36.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Co.

1. 79–10137
2. 34–157–23180–0014
3. 103
4. K S T Oil & Gas Co. Inc.
5. Ralph J Owens #4
6.
7. Tuscarawas, OH
8. 36.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10138
2. 34–121–22122–0014
3. 103
4. Tiger Oil Inc.
5. Lee Crock #1
6.
7. Noble, OH
8. 15.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Co.

1. 79–10139
2. 34–119–24128–0014
3. 103
4. Jadoil Inc.
5. G & E Emerson #1
6.
7. Muskingum, OH
8. 10.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10140
2. 34–167–24596–0014
3. 103
4. Monaterra Petroleum Inc.
5. V Davis #1
6. Lowell
7. Washington, OH
8. 15.0 million cubic feet
9. June 22, 1979
10.

1. 79–10141
2. 34–035–20918–0014
3. 103
4. Green Gas Co.
5. Lifetime Homes Inc. Gemini Estates
6.
7. Cuyahoga, OH
8. 2.0 million cubic feet
9. June 22, 1979
10. Columbia Gas of Ohio

1. 79–10142
2. 34–089–23560–0014
3. 103
4. Hortin and Huffman
5. James D & Leona M Dickenson #1
6.
7. Licking, OH
8. 2.0 million cubic feet
9. June 22, 1979

10. National Gas & Oil Corp.
1. 79–10143
2. 34–089–23273–0014
3. 103
4. Jadoil Inc.
5. Orville D and Marjorie J Wilson #4
6.
7. Licking, OH
8. 10.0 million cubic feet
9. June 22, 1979
10. National Gas & Oil Corporation
1. 79–10144
2. 34–119–24657–0014
3. 103
4. Hopewell Oil & Gas Development Co.
5. Fusner #1
6.
7. Muskingum, OH
8. 10.0 million cubic feet
9. June 22, 1979
10.
1. 79–10145
2. 34–119–24679–0014
3. 103
4. Hopewell Oil & Gas Dev Co.
5. Rucker #1
6.
7. Muskingum, OH
8. 12.0 million cubic feet
9. June 22, 1979
10.
1. 79–10146
2. 34–121–22086–0014
3. 103
4. Tiger Oil Inc.
5. Wheeler-Guiler #2
6.
7. Noble, OH
8. 25.0 million cubic feet
9. June 22, 1979
10. Columbia Gas
1. 79–10147
2. 34–133–21853–0014
3. 103
4. R D Curry Production Company
5. Alberi Horning #1
6.
7. Portage, OH
8. 10.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company
1. 79–10148
2. 34–133–21854–0014
3. 103
4. R D Curry Production Company
5. Stotler Unit #1
6.
7. Portage, OH
8. 10.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company
1. 79–10149
2. 34–059–22092–0014
3. 103
4. Enterprise Gas & Oil Inc.
5. Young #2
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. June 22, 1979
10. Owens Illinois Glass Co.
1. 79–10150
2. 34–059–22224–0014
3. 103
4. Enterprise Gas & Oil Inc.
5. Bay #1
6.
7. Guernsey, OH
8. 27.4 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.
1. 79–10151
2. 34–059–22377–0014
3. 103
4. Enterprise Gas & Oil Inc.
5. Brown et al. #1
6.
7. Guernsey, OH
8. 27.3 million cubic feet
9. June 22, 1979
10.
1. 79–10152
2. 34–121–22135–0014
3. 103
4. Enterprise Gas & Oil Inc.
5. Zudell #1
6.
7. Noble, OH
8. 9.1 million cubic feet
9. June 22, 1979
10.
1. 79–10153
2. 34–121–22090–0014
3. 103
4. Enterprise Gas & Oil Inc
5. R Wheeler #1
6.
7. Noble, OH
8. 36.5 million cubic feet
9. June 22, 1979
10.
1. 79–10154
2. 34–059–22223–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Harris-Bay #1
6.
7. Guernsey, OH
8. 18.5 million Cubic Feet
9. June 22, 1979
10. Columbia Gas Transmission Corp
1. 79–10155
2. 34–059–22537–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Preston Nickles #1
6.
7. Guernsey, OH
8. 14.6 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co
1. 79–10156
2. 34–119–24508–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Fineran #1
6.
7. Muskingum, OH
8. 18.5 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp
1. 79–10157
2. 34–059–22546–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Robinson #2
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co
1. 79–10158
2. 34–059–22562–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Stoney #1
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp
1. 79–10159
2. 34–059–22264–0014
3. 103
4. Enterprise Gas & Oil Inc
5. M Rogers #1
6.
7. Guernsey, OH
8. 54.7 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co
1. 79–10160
2. 34–059–22127–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Howell #2
6.
7. Guernsey, OH
8. 9.1 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co
1. 79–10161
2. 34–059–22137–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Ball #2
6.
7. Guernsey, OH
8. 7.3 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co
1. 79–10162
2. 34–119–23997–0014
3. 103
4. Enterprise Gas & Oil Inc
5. McCutcheon #1
6.
7. Muskingum, OH
8. 18.2 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co
1. 79–10163
2. 34–059–22062–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Young #1
6.
7. Guernsey, OH
8. 21.9 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co
1. 79–10164
2. 34–059–22265–0014
3. 103
4. Enterprise Gas & Oil Inc
5. M Rogers #2
6.
7. Guernsey, OH
8. 25.5 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co

1. 79–10165
2. 34–059–22163–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Ball #3
6.
7. Guernsey, OH
8. 10.9 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co

1. 79–10166
2. 34–059–22314–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Potts-Rogers #1
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co

1. 79–10167
2. 34–059–22270–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Potts #1
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co

1. 79–10168
2. 34–059–21856–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Dougherty-Frazier #4
6.
7. Guernsey, OH
8. 18.2 million cubic feet
9. June 22, 1979
10. East Ohio Gas Co

1. 79–10169
2. 34–059–22262–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Marvin-Orr #1
6.
7. Guernsey, OH
8. 18.2 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co

1. 79–10170
2. 34–059–22259–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Ball #4
6.
7. Guernsey, OH
8. 9.1 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co

1. 79–10171
2. 34–121–22089–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Moor #1
6.
7. Noble, OH
8. 9.1 million cubic feet
9. June 22, 1979
10. East Ohio Gas Co

1. 79–10172
2. 34–059–22030–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Wise #1
6.
7. Guernsey, OH
8. 36.5 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission

1. 79–10173
2. 34–059–22179–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Dyer #2
6.
7. Guernsey, OH
8. 18.2 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co

1. 79–10174
2. 34–059–22046–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Bear-Moorhead #8
6.
7. Guernsey, OH
8. 14.6 million cubic feet
9. June 22, 1979
10. East Ohio Gas Co

1. 79–10175
2. 34–059–22543–0014
3. 103
4. Enterprise Gas & Oil Inc
5. Robinson #1
6.
7. Guernsey, OH
8. 27.3 million cubic feet
9. June 22, 1979
10. Owens-Illinois Glass Co

1. 79–10176
2. 34–105–21572–0014
3. 108
4. R Gone Brasol DBA Brasel & Brasol
5. Marcia I Harrison et al #1
6.
7. Meigs, OH
8. 3.5 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10177
2. 34–127–24295–0014
3. 103
4. Altheirs Oil Inc
5. Grace Weaver #1
6.
7. Perry, OH
8. 10.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10178
2. 34–169–21957–0014
3. 103
4. Anchor Petroleum Corporation
5. Clyde Burton Well #1
6.
7. Wayne, OH
8. 1.5 million cubic feet
9. June 22, 1979
10. Columbia Gas Of Ohio Inc

1. 79–10179
2. 34–133–21805–0014
3. 103
4. Viking Resources Corporation
5. Hodges Unit #2
6.
7. Portage, OH
8. 30.0 million cubic feet
9. June 22, 1979
10.

1. 79–10180
2. 34–133–21804–0014
3. 103
4. Viking Resources Corporation
5. Hodges Unit #1
6.
7. Portage, OH
8. 30.0 million cubic feet
9. June 22, 1979
10.

1. 79–10181
2. 34–031–22483–0014
3. 108
4. John C Mason
5. Walter E Eppley #1
6.
7. Coshocton, OH
8. 3.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Trans Corp

1. 79–10182
2. 34–007–20257–0014
3. 108
4. Quaker State Oil Refining Corp
5. Potakar #1
6.
7. Ashtabula, OH
8. 2.3 million cubic feet
9. June 22, 1979
10. Chanse Petroleum

1. 79–10183
2. 34–007–20281–0014
3. 108
4. Quaker State Oil Refining Corp
5. Foster #2
6.
7. Ashtabula, OH
8. 2.2 million cubic feet
9. June 22, 1979
10. Chanse Petroleum

1. 79–10184
2. 34–007–20267–0014
3. 108
4. Quaker State Oil Refining Corp
5. Polakiewicz #1
6.
7. Ashtabula, OH
8. 5.4 million cubic feet
9. June 22, 1979
10. Chanse Petroleum

1. 79–10185
2. 34–007–20274–0014
3. 108
4. Quaker State Oil Refining Corp
5. Foster #1
6.
7. Ashtabula, OH
8. 5.6 million cubic feet
9. June 22, 1979
10. Chanse Petroleum

1. 79–10186
2. 34–007–20271–0014
3. 108
4. Quaker State Oil Refining Corp
5. Ferguson #1
6.
7. Ashtabula, OH
8. 3.6 million cubic feet
9. June 22, 1979
10. Chanse Petroleum

1. 79–10187

2. 34-007-20256-0014
3. 108
4. Quaker State Oil Refining Corp
5. Kenyon #1
6.
7. Ashtabula, OH
8. 2.5 million cubic feet
9. June 22, 1979
10. Chanse Petroleum

1. 79-10188
2. 34-115-20905-0014
3. 108
4. Beulah F-Bruce A Comstock
5. Comstock #4
6.
7. Morgan, OH
8. .8 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission

1. 79-10189
2. 34-115-20884-0014
3. 108
4. Beulah F-Bruce A Comstock
5. Comstock #2
6.
7. Morgan, OH
8. .8 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission

1. 79-10190
2. 34-031-21899-0014
3. 108
4. John C Mason
5. Forest R Meyers #1
6.
7. Coshocton, OH
8. 3.0 million cubic feet
9. June 22, 1979
10. Ohio Cumberland Gas Co

1. 79-10191
2. 34-031-21940-0014
3. 108
4. John C Mason
5. Forest R Meyers #2
6.
7. Coshocton, OH
8. 3.0 million cubic feet
9. June 22, 1979
10. Ohio Cumberland Gas Co

1. 79-10192
2. 34-075-21400-0014
3. 108
4. John C Mason
5. W R Anderson #1
6.
7. Holmes, OH
8. 3.6 million cubic feet
9. June 22, 1979
10. Columbia Gas Trans Corp

1. 79-10193
2. 34-075-21449-0014
3. 108
4. John C Mason
5. Sarah & Raymond Yoder #1
6.
7. Holmes, OH
8. 8.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Trans Corp

1. 79-10194
2. 34-075-21927-0014
3. 108
4. John C Mason
5. Raymond F Patterson #1
6.
7. Holmes, OH
8. 4.0 million cubic feet
9. June 22, 1979
10. Ilsco Corp

1. 79-10195
2. 34-075-21872-0014
3. 108
4. John C Mason
5. Virgil E Shreiner #4
6.
7. Holmes, OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Trans Corp

1. 79-10196
2. 34-075-21835-0014
3. 108
4. John C Mason
5. Virgil E Shreiner #3
6.
7. Holmes, OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Trans Corp

1. 79-10197
2. 34-075-21824-0014
3. 108
4. John C Mason
5. Virgil E Shreiner #2
6.
7. Holmes, OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Trans Corp

1. 79-10198
2. 34-115-20899-0014
3. 108
4. Beulah F-Bruce D Comstock
5. Comstock #3
6.
7. Morgan, OH
8. .8 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79-10199
2. 34-075-21399-0014
3. 108
4. John C Mason
5. Arthur Piar #1
6.
7. Holmes, OH
8. .0 million cubic feet
9. June 22, 1979
10.

1. 79-10200
2. 34-169-21894-0014
3. 108
4. Jogn C Mason4
5. Lewis Grover #3
6.
7. Wayne, OH
8. 18.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Trans Corp

1. 79-10201
2. 34-075-21816-0014
3. 108
4. John C Mason
5. Virgil E Shreiner #1
6.
7. Holmes, OH
8. 50175.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Trans Corp

1. 79-10202
2. 34-075-21646-0014
3. 108
4. The Oxford Oil Co
5. Marie Lawson #1
6.
7. Holmes, OH
8. 2.5 million cubic feet
9. June 22, 1979
10. Columbia Gas Trans Corp

1. 79-10203
2. 34-119-23720-0014
3. 108
4. Jadoil Inc.
5. R & R Williams #1
6.
7. Muskingum, OH
8. 14.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79-10204
2. 34-119-23747-0014
3. 108
4. Jadoil Inc
5. R & R Williams #3
6.
7. Muskingum, OH
8. 11.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79-10205
2. 34-121-21926-0014
3. 108
4. St Joe Petroleum US Corporation
5. A Nau #1
6.
7. Noble, OH
8. 8.0 million cubic feet
9. June 22, 1979
10. Republic Steel Corporation

1. 79-10206
2. 34-009-20640-0014
3. 108
4. William A Glass
5. Ferd Lawson #1 5927
6. Lodi
7. Athens, OH
8. .2 million cubic feet
9. June 22, 1979
10. Columbia Gas Corp

1. 79-10207
2. 34-009-00636-0014
3. 108
4. William A Glass
5. Clyde Smith #1 5786
6. Lodi
7. Athens, OH
8. .2 million cubic feet
9. June 22, 1979
10. Columbia Gas Corp

1. 79-10208
2. 34-155-20575-0014
3. 103
4. Ohio Industrial Energy Inc
5. Smith Unit No 2 #1086
6.
7. Turmbull, OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp, Copperweld Steel Co, Ohio Steel Tube

1. 79-10209

2. 34–155–20502–0014
3. 103
4. Ohio Industrial Energy Inc
5. Smith No 1 #1085
6.
7. Trumbull, OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp, Copperweld Steel Co, Ohio Steel Tube

1. 79–10210
2. 34–155–20451–0014
3. 103
4. Ohio Industrial Energy Inc
5. Spisak No #1082
6.
7. Trumbull, OH
8. 36.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp, Copperweld Steel Co, Ohio Steel Tube

1. 79–10211
2. 34–155–20452–0014
3. 103
4. Ohio Industrial Energy Inc
5. Spisak No 2—#1083
6.
7. Trumbull, OH
8. 24.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp, Copperweld Steel Co, Ohio Steel Tube

1. 79–10212
2. 34–155–20580–0014
3. 103
4. Ohio Industrial Energy Inc
5. St Williams No 1—#1107
6.
7. Trumbull, OH
8. 36.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp, Copperweld Steel Co, Ohio Steel Tube

1. 79–10213
2. 34–155–20898–0014
3. 103
4. Ohio Industrial Energy Inc
5. Stipec No 1—#1143
6.
7. Trumbull, OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp, Copperweld Steel Co, Ohio Steel Tube

1. 79–10214
2. 34–155–20863–0014
3. 103
4. Ohio Industrial Energy Inc
5. Tate-Rood Unit No 1—#1136
6.
7. Trumbull, OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp, Copperweld Steel Co, Ohio Steel Tube

1. 79–10215
2. 34–155–20302–0014
3. 103
4. Ohio Industrial Energy Inc
5. Trumbull County Unit No. 4—#1071
6.
7. Trumbull, OH
8. 60.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp, Copperweld Steel Co, Ohio Steel Tube

1. 79–10216
2. 34–155–20497–0014
3. 103
4. Ohio Industrial Energy Inc
5. Varner No 1—#1101
6.
7. Trumbull, OH
8. 72.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp, Copperweld Steel Co, Ohio Steel Tube

1. 79–10217
2. 34–155–20519–0014
3. 103
4. Ohio Industrial Energy Inc
5. Warren No 1—#1099
6.
7. Trumbull, OH
8. 16.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp, Copperweld Steel Co, Ohio Steel Tube

1. 79–10218
2. 34–155–20799–0014
3. 103
4. Ohio Industrial Energy Inc
5. Warren Unit No 1—#1133
6.
7. Trumbull, OH
8. 16.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp, Copperweld Steel Co, Ohio Steel Tube

1. 79–10219
2. 34–155–20520–0014
3. 103
4. Ohio Industrial Energy Inc
5. Warren No 2—#1100
6.
7. Trumbull, OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp, Copperweld Steel Co, Ohio Steel Tube

1. 79–10220
2. 34–105–21776–0014
3. 103
4. BJVC Energy Management Corp
5. Clyde Scraggs #1
6.
7. Meigs OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10221
2. 34–105–21775–0014
3. 103
4. BJVC Energy Management Corp
5. R & M First #1
6.
7. Meigs, OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10222
2. 34–053–20369–0014
3. 103
4. Altheirs Oil Inc
5. J Arthur Evans #1
6.
7. Gallia, OH
8. 20.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10223
2. 34–053–20396–0014
3. 103
4. Altheirs Oil Inc
5. Noel Herman #1
6. Cheshire-Northeast
7. Gallia, OH
8. 18.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10224
2. 34–053–20368–0014
3. 103
4. Altheirs Oil Inc
5. J Arthur Evans #1–A
6. Cheshire-Northeast
7. Gallia, OH
8. 25.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10225
2. 34–075–22134–0014
3. 103
4. B T Simpson Jr
5. Eugene E Allison ETAL 2134
6. Nashville
7. Holmes, OH
8. 22.5 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10226
2. 34–153–20690–0014
3. 103
4. K S T Oil & Gas Co Inc
5. Tamsin Park #1
6.
7. Summit, OH
8. 40.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Co

1. 79–10227
2. 34–157–23177–0014
3. 103
4. K S T Oil & Gas Co Inc
5. Ralph J Owens #3
6.
7. Tuscarawas, OH
8. 36.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10228
2. 34–153–20684–0014
3. 103
4. K S T Oil & Gas Co Inc
5. E Weinberger #2
6.
7. Summit, OH
8. 36.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Co

1. 79–10229
2. 34–157–23182–0014
3. 103
4. K S T Oil & Gas Co Inc
5. Doris E Longsworth #1
6.
7. Tuscarawas, OH
8. 36.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10230

2. 34–103–21942–0014
3. 103
4. Schwanco Inc
5. Schwan #3
6.
7. Medina, OH
8. 30.0 million cubic feet
9. June 22, 1979
10. Columbia Gas of Ohio Inc

1. 79–10231
2. 34–153–20655–0014
3. 103
4. A W Bosshard
5. A W Bosshard No 1
6.
7. Summit, OH
8. .0 million cubic feet
9. June 22, 1979
10.

1. 79–10232
2. 34–119–24672–0014
3. 103
4. Inland Drilling Co Inc
5. McNutt-Farquhar #1 4668
6.
7. Muskingum, OH
8. .5 million cubic feet
9. June 22, 1979
10.

1. 79–10233
2. 34–119–24673–0014
3. 103
4. Inland Drilling Co Inc
5. Harmon #1 4673
6.
7. Muskingum, OH
8. .5 million cubic feet
9. June 22, 1979
10.

1. 79–10234
2. 34–007–21002–0014
3. 103
4. Inland Drilling Co Inc
5. Million #3 1002
6.
7. Ashtabula, OH
8. .3 million cubic feet
9. June 22, 1979
10.

1. 79–10235
2. 34–089–23576–0014
3. 103
4. Inland Drilling Co Inc
5. Rubeck #1 3576
6.
7. Licking, OH
8. .5 million cubic feet
9. June 22, 1979
10.

1. 79–10236
2. 34–059–22094–0014
3. 103
4. Appalachian Exploration Inc
5. Bettis #2
6.
7. Guernsey, OH
8. 20.0 million cubic feet
9. June 22, 1979
10. American Energy Services Inc

1. 79–10237
2. 34–059–22231–0014
3. 103
4. Appalachian Exploration Inc
5. Dutro #1
6.
7. Guernsey, OH
8. 4.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp

1. 79–10238
2. 34–059–22232–0014
3. 103
4. Appalachian Exploration Inc
5. Elliott #1
6.
7. Guernsey, OH
8. 2.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp

1. 79–10239
2. 34–059–22233–0014
3. 103
4. Appalachian Exploration Inc
5. Elliott #2
6.
7. Guernsey OH
8. 2.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp

1. 79–10240
2. 34–099–20958–0014
3. 103
4. Appalachian Exploration Inc
5. Folk #1
6.
7. Mahoning OH
8. 20.0 million cubic feet
9. June 22, 1979
10. American Energy Services Inc

1. 79–10241
2. 34–059–22322–0014
3. 103
4. Appalachian Exploration Inc
5. Forsythe #1
6.
7. Guernsey OH
8. 20.0 million cubic feet
9. June 22, 1979
10. American Energy Services Inc

1. 79–10242
2. 34–099–20957–0014
3. 103
4. Appalachian Exploration Inc
5. Green Valley Farms #1
6.
7. Mahoning OH
8. 20.0 million cubic feet
9. June 22, 1979
10. American Energy Services Inc

1. 79–10243
2. 34–059–22048–0014
3. 103
4. Appalachian Exploration Inc
5. Hinchcliff #1
6.
7. Guernsey OH
8. 35.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp

1. 79–10244
2. 34–059–22051–0014
3. 103
4. Appalachian Exploration Inc
5. Hinchcliff #2
6.
7. Guernsey OH
8. 35.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp

1. 79–10245
2. 34–059–22005–0014
3. 103
4. Appalachian Exploration Inc
5. Hosfelt unit #1
6.
7. Guernsey OH
8. 3.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp

1. 79–10246
2. 34–059–22234–0014
3. 103
4. Appalachian Exploration Inc
5. Jennings #1
6.
7. Guernsey OH
8. 30.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp

1. 79–10247
2. 34–151–22697–0014
3. 103
4. Appalachian Exploration Inc
5. Jon-Son Farms #1
6.
7. Stark OH
8. 30.0 million cubic feet
9. June 22, 1979
10. Transue & Williams Steel Forging

1. 79–10248
2. 34–157–22914–0014
3. 103
4. Appalachian Exploration Inc
5. Kistler #1
6.
7. Tuscarawas OH
8. 3.0 million cubic feet
9. June 22, 1979
10. Sterling China Co

1. 79–10249
2. 34–059–22006–0014
3. 103
4. Appalachian Exploration Inc
5. Milhoan #1
6.
7. Guernsey OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp

1. 79–10250
2. 34–059–22170–0014
3. 103
4. Appalachian Exploration Inc
5. Donnie Ankrum #1
6.
7. Guernsey OH
8. 20.0 million cubic feet
9. June 22, 1979
10. American Energy Services Inc

1. 79–10251
2. 34–099–20959–0014
3. 103
4. Appalachian Exploration Inc
5. Beaton Unit #1
6.
7. Mahoning OH
8. 20.0 million cubic feet
9. June 22, 1979
10. American Energy Services Inc

1. 79–10252
2. 34–059–22095–0014

3. 103
4. Appalachian Exploration Inc
5. Bettis #1
6.
7. Guernsey OH
8. 20.0 million cubic feet
9. June 22, 1979
10. American Energy Services Inc

1. 79–10253
2. 34–059–22237–0014
3. 103
4. Appalachian Exploration Inc
5. Mullins #1
6.
7. Guernsey OH
8. 20.0 million cubic feet
9. June 22, 1979
10. American Energy Services Inc

1. 79–10254
2. 34–151–22783–0014
3. 103
4. Appalachian Exploration Inc
5. Niuman #1
6.
7. Stark OH
8. 20.0 million cubic feet
9. June 22, 1979
10. American Energy Services Inc

1. 79–10255
2. 34–157–23011–0014
3. 103
4. Appalachian Exploration Inc
5. Pasquinelli #1
6.
7. Tuscarawas OH
8. 30.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp

1. 79–10256
2. 34–059–22267–0014
3. 103
4. Appalachian Exploration Inc
5. Perry #1
6.
7. Guernsey OH
8. 15.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp

1. 79–10257
2. 34–157–23010–0014
3. 103
4. Appalachian Exploration Inc
5. Pica #1
6.
7. Tuscarawas OH
8. 35.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp

1. 79–10258
2. 34–059–22049–0014
3. 103
4. Appalachian Exploration Inc
5. F. Ringer #1
6.
7. Guernsey OH
8. 6.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp

1. 79–10259
2. 34–059–22052–0014
3. 103
4. Appalachian Exploration Inc
5. R Smith #1
6.
7. Guernsey OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp

1. 79–10260
2. 34–059–22053–0014
3. 103
4. Appalachian Exploration Inc
5. Shaw #1
6.
7. Guernsey OH
8. 30.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp

1. 79–10261
2. 34–121–22062–0014
3. 103
4. O'Neal Productions Inc
5. Chandler et al #3
6.
7. Noble OH
8. .0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10262
2. 34–121–22063–0014
3. 103
4. O'Neal Productions Inc
5. Cisler et al #1
6.
7. Noble OH
8. .0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10263
2. 34–121–22064–0014
3. 103
4. O'Neal Productions Inc
5. Morrison et al #1
6.
7. Noble OH
8. .0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10264
2. 34–167–24090–0014
3. 103
4. Energy Unlimited Inc
5. Donald Arnold #1
6.
7. Washington OH
8. 2.0 million cubic feet
9. June 22, 1979
10. River Gas Company

1. 79–10265
2. 34–167–24049–0014
3. 103
4. Cline Oil & Gas Co
5. Morris #1
6.
7. Washington OH
8. 10.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10266
2. 34–167–24108–0014
3. 103
4. Cline Oil & Gas Co
5. Morris #2
6.
7. Washington OH
8. 10.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10267
2. 34–133–21795–0014
3. 103
4. Inland Drilling Co Inc
5. Resnick #3 1791
6.
7. Portage OH
8. .3 million cubic feet
9. June 22, 1979
10.

1. 79–10268
2. 34–133–21378–0014
3. 103
4. Inland Drilling Co Inc
5. Gatts #1A 1378
6.
7. Portage OH
8. 1.2 million cubic feet
9. June 22, 1979
10. Anchor Hocking

1. 79–10269
2. 34–115–21068–0014
3. 103
4. Giant Petroleum Corporation
5. J & J Turon #12
6.
7. Trumbull OH
8. 20.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10270
2. 34–007–20811–0014
3. 103
4. Giant Petroleum Corporation
5. Faile—Unit—Well #1
6.
7. Ashtabula OH
8. 20.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10271
2. 34–007–20812–0014
3. 103
4. Giant Petroleum Corporation
5. Faile—Unit—Well #2
6.
7. Ashtabula OH
8. 15.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10272
2. 34–007–20809–0014
3. 103
4. Giant Petroleum Corporation
5. Faile—Unit—Well #4
6.
7. Ashtabula OH
8. 20.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10273
2. 34–007–20810–0014
3. 103
4. Giant Petroleum Corporation
5. Faile—Unit—Well #3
6.
7. Ashtabula OH
8. 15.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10274
2. 34–105–21788–0014
3. 103
4. BJVC Energy Management Corp

5. Ernest Lambert #1
6.
7. Meigs OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79-10275
2. 34-105-21774-0014
3. 103
4. BJVC Energy Management Corp
5. Thelma Dalton #2
6.
7. Meigs OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79-10276
2. 34-105-21783-0014
3. 103
4. BJVC Energy Management Corp
5. Thelma Dalton #1
6.
7. Meigs OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79-10277
2. 34-105-21754-0014
3. 103
4. BJVC Energy Management Corp
5. Thelma Meadows #1
6.
7. Meigs OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79-10278
2. 34-009-20464-0014
3. 108
4. William A Glass
5. William R Issacs #1 (3593)
6. Lodi
7. Athens OH
8. .2 million cubic feet
9. June 22, 1979
10. Columbia Gas Corp

1. 79-10279
2. 34-009-20641-0014
3. 108
4. William A Glass
5. Ferd Lawson #2 (5816)
6. Lodi
7. Athens OH
8. .2 million cubic feet
9. June 22, 1979
10. Columbia Gas Corp

1. 79-10280
2. 34-009-00632-0014
3. 108
4. William A Glass
5. Clyde Smith #2 (5797)
6. Lodi
7. Athens OH
8. .2 million cubic feet
9. June 22, 1979
10. Columbia Gas Corp

1. 79-10281
2. 34-121-21775-0014
3. 108
4. St Joe Petroleum (US) Corporation
5. J Schockling #1
6.
7. Noble OH
8. 8.0 million cubic feet
9. June 22, 1979
10. Republic Steel Corporation

1. 79-10282
2. 34-059-21027-0014
3. 108
4. Appalachian Exploration Inc
5. Fee #1
6.
7. Guernsey OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79-10283
2. 34-157-21398-0014
3. 108
4. Appalachian Exploration Inc
5. Everhard-Midvale #1
6.
7. Tuscarawas OH
8. 4.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Co

1. 79-10284
2. 34-157-21400-0014
3. 108
4. Appalachian Exploration Inc
5. De Vore #2
6.
7. Tuscarawas OH
8. 5.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Co

1. 79-10285
2. 34-157-21121-0014
3. 108
4. The Mutual Oil & Gas Company
5. Arnold Unit #1
6.
7. Tuscarawas OH
8. 7.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79-10286
2. 34-121-21779-0014
3. 108
4. St Joe Petroleum (US) Corporation
5. Baker/Noll No 1
6.
7. Noble OH
8. 8.0 million cubic feet
9. June 22, 1979
10. Republic Steel Corporation

1. 79-10287
2. 34-103-21072-0014
3. 108
4. Cora B Hoey
5. Wright No 1
6.
7. Medina OH
8. 2.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79-10288
2. 34-103-20744-0014
3. 108
4. Cora B Hoey
5. Amheiser No 2
6.
7. Medina OH
8. 4.5 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79-10289
2. 34-157-21612-0014
3. 108
4. Appalachian Exploration Inc
5. Garner #1
6.
7. Tuscarawas OH
8. 13.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Co

1. 79-10290
2. 34-083-22084-0014
3. 108
4. Ludco Inc
5. Over #1
6. Millwood
7. Knox OH
8. 8.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79-10291
2. 34-075-21914-0014
3. 108
4. Killbuck Oil Field Service
5. Earl-Russel #1 BL
6. Killbuck
7. Holmes OH
8. 1.9 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79-10292
2. 34-089-23783-0014
3. 108
4. Dick Hart
5. J E & A E Cooperrider #1
6.
7. Licking OH
8. 3.4 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79-10293
2. 34-157-20490-0014
3. 108
4. Killbuck Oil Field Service
5. Howard L Roxie Horn #1
6. Cambridge
7. Tuscarawas OH
8. 3.6 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79-10294
2. 34-059-21657-0014
3. 108
4. Mammoth Producing Corporation
5. R Nichols #1
6. Antrim
7. Guernsey OH
8. 6.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Compnay

1. 79-10295
2. 34-059-21659-0014
3. 108
4. Mammoth Producing Corporation
5. Tuttle-Moore Unit #1
6. Antrim
7. Guernsey OH
8. 3.5 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79-10296
2. 34-059-21658-0014
3. 108
4. Mammoth Producing Corporation
5. M E Bates #1

6. Birmingham
7. Guernsey OH
8. 12.5 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79–10297
2. 34–059–21600–0014
3. 108
4. Mammoth Producing Corporation
5. R Davidson #1
6. Birmingham
7. Guernsey OH
8. 15.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79–10298
2. 34–059–21687–0014
3. 108
4. Mammoth Producing Corporation
5. W Jeffers #1
6. Birmingham
7. Guernsey OH
8. 5.5 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79–10299
2. 34–059–21688–0014
3. 108
4. Mammoth Producing Corporation
5. W Kimble #1
6. Antrim
7. Guernsey, OH
8. 6.5 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79–10300
2. 34–059–21686–0014
3. 108
4. Mammoth Producing Corporation
5. Patterson Unit #1
6. Winterset
7. Guernsey, OH
8. 6.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79–10301
2. 34–059–21709–0014
3. 108
4. Mammoth Producing Corporation
5. R Chase #1
6. Birmingham
7. Guernsey, OH
8. 10.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79–10302
2. 34–059–21705–0014
3. 108
4. Mammoth Producing Corporation
5. A E Winters #1
6. Antrim
7. Guernsey, OH
8. 5.5 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79–10303
2. 34–059–21811–0014
3. 108
4. Mammoth Producing Corporation
5. R Hayes #1
6. Birmingham
7. Guernsey, OH
8. 7.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79–10304
2. 34–059–21604–0014
3. 108
4. Mammoth Producing Corporation
5. J Bird #1
6. Birmingham
7. Guernsey, OH
8. 14.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79–10305
2. 34–059–21609–0014
3. 108
4. Mammoth Producing Corporation
5. Royce-Keck #1
6. Birmingham
7. Guernsey, OH
8. 1.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79–10306
2. 34–059–21621–0014
3. 108
4. Mammoth Producing Corporation
5. Leeper-Greenlees #1
6. Birmingham
7. Guernsey, OH
8. 6.5 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79–10307
2. 34–059–21647–0014
3. 108
4. Mammoth Producing Corporation
5. H Bair #1
6. Birmingham
7. Guernsey, OH
8. 8.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79–10308
2. 34–059–21649–0014
3. 108
4. Mammoth Producing Corporation
5. Cole-Dacar #1
6. Birmingham
7. Guernsey, OH
8. 15.5 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79–10309
2. 34–059–21651–0014
3. 108
4. Mammoth Producing Corporation
5. J Wheeler #1
6. Antrim
7. Guernsey, OH
8. 6.5 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Company

1. 79–10310
2. 34–167–23344–0014
3. 108
4. Dewey H Tilton—Joseph Cosgriff
5. C A Barlow #3
6.
7. Washington, OH
8. 3.5 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission

1. 79–10311
2. 34–167–20506–0014
3. 108
4. Dewey H Tilton—Joseph Cosgriff
5. Maruin Harris #1
6.
7. Washington, OH
8. 3.5 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10312
2. 34–167–20561–0014
3. 108
4. Dewey H Tilton—Joseph Cosgriff
5. C A Barlow #1
6.
7. Washington, OH
8. 3.5 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10313
2. 34–167–23308–0014
3. 108
4. Dewey H Tilton—Joseph Cosgriff
5. Larry Tilton No 2
6.
7. Washington, OH
8. 5.4 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10314
2. 34–167–23381–0014
3. 108
4. Dewey H Tilton—Joseph Cosgriff
5. Marvin Harris #2
6.
7. Washington, OH
8. 3.5 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10315
2. 34–019–21247–0014
3. 103
4. Belden & Blake and Co L P 70
5. A Mastroianni #2–843
6.
7. Carroll, OH
8. 10.0 million cubic feet
9. June 22, 1979
10.

1. 79–10316
2. 34–103–21968–0014
3. 103
4. King Drilling Co
5. John Gehman #2
6.
7. Medina, OH
8. 40.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas

1. 79–10317
2. 34–103–21983–0014
3. 103
4. King Drilling Co
5. Allen Ressler #1
6.
7. Medina, OH
8. 40.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas

1. 79–10318
2. 34–083–22510–0014
3. 103
4. Johnson Drilling Co
5. Robert Edmondson #2
6.

7. Knox, OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10319
2. 34–119–24500–0014
3. 103
4. The Benatty Corporation
5. L Crawford #2
6.
7. Muskingum, OH
8. 25.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10320
2. 34–153–20678–0014
3. 103
4. KST Oil & Gas Co Inc
5. Armington-Buckeye #1
6.
7. Summit, OH
8. 36.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Co

1. 79–10321
2. 34–059–22539–0014
3. 103
4. Bartlo Associates Inc
5. H Wells #3
6.
7. Guernsey, OH
8. 20.0 million cubic feet
9. June 22, 1979
10.

1. 79–10322
2. 34–157–23240–0014
3. 103
4. Bartlo Associates Inc
5. C Hawk #1
6.
7. Tuscarawas, OH
8. 20.0 million cubic feet
9. June 22, 1979
10.

1. 79–10323
2. 34–059–22511–0014
3. 103
4. Bartlo Associates Inc
5. H Wells #2
6.
7. Guernsey, OH
8. 20.0 million cubic feet
9. June 22, 1979
10.

1. 79–10324
2. 34–157–23137–0014
3. 103
4. Peter A Bartlo Inc
5. Central Catholic Unit #1
6.
7. Tuscarawas, OH
8. 20.0 million cubic feet
9. June 22, 1979
10.

1. 79–10325
2. 34–157–23169–0014
3. 103
4. Peter A Bartlo Inc
5. T Larkin #1
6.
7. Tuscarawas, OH
8. 20.0 million cubic feet
9. June 22, 1979
10.

1. 79–10326
2. 34–157–23167–0014
3. 103
4. Peter A Bartlo Inc
5. P Smith #1
6.
7. Tuscarawas, OH
8. 20.0 million cubic feet
9. June 22, 1979
10.

1. 79–10327
2. 34–059–22510–0014
3. 103
4. Bartlo Associates Inc
5. H Wells #1
6.
7. Guernsey, OH
8. 20.0 million cubic feet
9. June 22, 1979
10.

1. 79–10328
2. 34–031–23166–0014
3. 103
4. General Electric Co Haddad and Broo
5. General Electric #2
6.
7. Coshocton, OH
8. 29.0 million cubic feet
9. June 22, 1979
10.

1. 79–10329
2. 34–083–22590–0014
3. 103
4. Derrick Petroleum Co
5. Dwight Ruby #1–A
6.
7. Knox, OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10330
2. 34–083–22581–0014
3. 103
4. Jerry C Olds
5. Ora Johnson #8
6.
7. Knox, OH
8. 2.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10331
2. 34–089–23568–0014
3. 103
4. American Well Management Company
5. Priest No 1
6.
7. Licking, OH
8. 18.0 million cubic feet
9. June 22, 1979
10.

1. 79–10332
2. 34–059–22455–0014
3. 103
4. Bauman Oil & Gas Co Inc
5. Bauman Kinner #1
6.
7. Guernsey, OH
8. 30.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10333
2. 34–059–22513–0014
3. 103
4. Bauman Oil & Gas Co Inc
5. Bauman Palmer #1
6.
7. Guernsey, OH
8. 45.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10334
2. 34–119–24477–0014
3. 103
4. Callander & Kimbrel Inc
5. Strickler #1
6.
7. Muskingum, OH
8. 14.6 million cubic feet
9. June 22, 1979
10.

1. 79–10335
2. 34–167–24137–0014
3. 103
4. Tri-City Drilling Co Inc
5. Nina J Jones #1
6.
7. Washington, OH
8. 6.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission

1. 79–10336
2. 34–133–21220–0014
3. 103
4. Pominex Inc
5. #1 R & B Bossow
6.
7. Portage, OH
8. 10.0 million cubic feet
9. June 22, 1979
10. Stark Oilfield Services Inc

1. 79–10337
2. 34–031–23284–0014
3. 103
4. Worthington Oil Company Inc
5. Exline #1
6.
7. Coshocton, OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10338
2. 34–007–20954–0014
3. 103
4. Clarence K Tussel Jr
5. E Krause #1
6.
7. Ashtabula, OH
8. 25.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10339
2. 34–153–20619–0014
3. 103
4. Rondy Incorporated
5. Rondy-Schnee No 1
6.
7. Summit, OH
8. 43.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10340
2. 34–059–22402–0014
3. 103
4. Pioneer Oil Company Inc
5. #1 Galbraith
6.
7. Guernsey, OH
8. 100.0 million cubic feet

9. June 22, 1979
10. The East Ohio Gas Company
1. 79-10341
2. 34-121-22108-0014
3. 103
4. Green Gas Co
5. ITOL Reed-Ohio Power #1
6.
7. Noble, OH
8. 2.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Co
1. 79-10342
2. 34-133-21760-0014
3. 103
4. Inland Drilling Co Inc
5. L & P Investments #2
6.
7. Portage, OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Stark Oilfield Services Inc
1. 79-10343
2. 34-155-21168-0014
3. 103
4. Berea Oil and Gas Corporation
5. A & B Evans Unit #1
6.
7. Trumbull, OH
8. 32.4 million cubic feet
9. June 22, 1979
10. East Ohio Gas Co
1. 79-10344
2. 34-121-21963-0014
3. 103
4. Pominex Inc
5. Charles Coyle #18
6.
7. Noble, OH
8. 30.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company
1. 79-10345
2. 34-029-20731-0014
3. 103
4. Pominex Inc
5. #1 Ralph Kettering
6.
7. Columbiana, OH
8. 32.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company
1. 79-10346
2. 34-133-21180-0014
3. 103
4. Pominex Inc
5. #2 Bujalski
6.
7. Portage, OH
8. 11.0 million cubic feet
9. June 22, 1979
10. Stark Oilfield Services Inc
1. 79-10347
2. 34-099-21093-0014
3. 103
4. Pominex Inc
5. #1 Edward Wilson Unit
6.
7. Mahoning, OH
8. 35.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company
1. 79-10348
2. 34-099-20926-0014
3. 103
4. Pominex Inc
5. #1 R Davenport
6.
7. Mahoning, OH
8. 50.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company
1. 79-10349
2. 34-151-22946-0014
3. 103
4. Belden & Blake and Co L P No 70
5. J & C Horner Comm #1-871
6.
7. Stark, OH
8. 10.0 million cubic feet
9. June 22, 1979
10.
1. 79-10350
2. 34-121-22106-0014
3. 103
4. Green Gas Co
5. Todd Johnson—Wheeler #1
6.
7. Noble, OH
8. 3.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Co
1. 79-10351
2. 34-121-22111-0014
3. 103
4. Green Gas Co
5. Clem Garvin #1
6.
7. Noble, OH
8. 3.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Co
1. 79-10352
2. 34-089-23567-0014
3. 103
4. American Well Management Company
5. Johnson No 1
6.
7. Licking, OH
8. 18.0 million cubic feet
9. June 22, 1979
10.
1. 79-10353
2. 34-127-23911-0014
3. 103
4. C J Warren Oil Company
5. Lewis/Peabody #1
6.
7. Perry, OH
8. 1.5 million cubic feet
9. June 22, 1979
10. Foraker Gas Company
1. 79-10354
2. 34-089-23563-0014
3. 103
4. Jonsu Corp
5. Fred Moore #1
6.
7. Licking, OH
8. 10.0 million cubic feet
9. June 22, 1979
10.
1. 79-10355
2. 34-089-23571-0014
3. 103
4. American Well Management Company
5. Johnson #3
6.
7. Licking, OH
8. 18.0 million cubic feet
9. June 22, 1979
10.
1. 79-10356
2. 34-089-23570-0014
3. 103
4. American Well Management Company
5. Johnson No 2
6.
7. Licking, OH
8. 18.0 million cubic feet
9. June 22, 1979
10.
1. 79-10357
2. 34-089-23572-0014
3. 103
4. American Well Management Company
5. Wilson No 1
6.
7. Licking, OH
8. 18.0 million cubic feet
9. June 22, 1979
10.
1. 79-10358
2. 34-133-21806-0014
3. 103
4. Viking Resources Corporation
5. Hampton #1
6.
7. Portage, OH
8. 30.0 million cubic feet
9. June 22, 1979
10.
1. 79-10359
2. 34-133-21882-0014
3. 103
4. Viking Resources Corporation
5. L & D Balogh #2
6.
7. Portage, OH
8. 30.0 million cubic feet
9. June 22, 1979
10.
1. 79-10360
2. 34-133-21865-0014
3. 103
4. Viking Resources Corporation
5. E & N Kime #2
6.
7. Portage, OH
8. 30.0 million cubic feet
9. June 22, 1979
10.
1. 79-10361
2. 34-133-21866-0014
3. 103
4. Viking Resources Corporation
5. Elton J Kime #1
6.
7. Portage, OH
8. 30.0 million cubic feet
9. June 22, 1979
10.
1. 79-10362
2. 34-133-21678-0014
3. 103
4. Smythco Inc.
5. King-Smythe Ventures #2
6.
7. Portage, OH
8. 20.0 million cubic feet
9. June 22, 1979

10.
1. 79–10363
2. 34–073–22119–0014
3. 103
4. Orwig Oil Company
5. Dupler-Huston #1
6.
7. Hocking, OH
8. 6.0 million cubic feet
9. June 22, 1979
10. Paramount Transmission Corporation
1. 79–10364
2. 34–103–22051–0014
3. 103
4. Leslie Oil and Gas Co. Inc.
5. Rice/Butcher Unit #1
6.
7. Medina, OH
8. 4.0 million cubic feet
9. June 22, 1979
10.
1. 79–10365
2. 34–103–21980–0014
3. 103
4. Leslie Oil and Gas Co Inc.
5. Leonard #3
6.
7. Medina, OH
8. 3.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Corporation
1. 79–10366
2. 34–099–21024–0014
3. 103
4. Pominex Inc.
5. #1 J L Ewing
6.
7. Mahoning, OH
8. 32.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company
1. 79–10367
2. 34–099–20987–0014
3. 103
4. Pominex Inc.
5. #1 Huffman Unit
6.
7. Mahoning, OH
8. 50.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company
1. 79–10368
2. 34–099–21023–0014
3. 103
4. Pominex Inc.
5. #1 Wiltcrest Halt Unit
6.
7. Mahoning, OH
8. 32.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company
1. 79–10369
2. 34–099–21076–0014
3. 103
4. Pominex Inc.
5. #2 Harvey Paulin
6.
7. Mahoning, OH
8. 30.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company
1. 79–10370
2. 34–031–23371–0014
3. 103
4. The Oxford Oil Co.
5. Five Springs Farm #1
6.
7. Coshocton, OH
8. 9.0 million cubic feet
9. June 22, 1979
10.
1. 79–10371
2. 34–127–23918–0014
3. 103
4. C J Warren Oil Company
5. Nash #1
6.
7. Perry, OH
8. .7 million cubic feet
9. June 22, 1979
10. Foraker Gas Company
1. 79–10372
2. 34–119–24485–0014
3. 103
4. The Oxford Oil Co.
5. Kenneth Wilson #1
6.
7. Muskingum, OH
8. 9.0 million cubic feet
9. June 22, 1979
10.
1. 79–10373
2. 34–119–24723–0014
3. 103
4. The Oxford Oil Co.
5. Jesse Jordan #2
6.
7. Muskingum, OH
8. 10.0 million cubic feet
9. June 22, 1979
10.
1. 79–10374
2. 34–099–20971–0014
3. 103
4. Rowley & Brown Petroleum Corp.
5. Wuthrick #1
6.
7. Mahoning, OH
8. 27.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Company
1. 79–10375
2. 34–009–21913–0014
3. 103
4. Reliance Management Co.
5. Sunday Creek Coal #46R
6.
7. Athens, OH
8. 15.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission
1. 79–10376
2. 34–073–22103–0014
3. 103
4. Estate of Barton A Holl
5. Jerry J Clark #1
6.
7. Hocking, OH
8. 36.5 million cubic feet
9. June 22, 1979
10. Columbia Gas
1. 79–10377
2. 34–073–22056–0014
3. 103
4. Estate of Barton A Holl
5. Ruth F Vickers #2
6.
7. Hocking, OH
8. 40.2 million cubic feet
9. June 22, 1979
10. Columbia Gas
1. 79–10378
2. 34–121–22134–0014
3. 103
4. Green Gas Company
5. Edward Greathouse #1
6.
7. Noble, OH
8. 2.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Co.
1. 79–10380
2. 34–127–23828–0014
3. 103
4. Wilson Petroleum Corp.
5. James Finck #1
6.
7. Perry, OH
8. 2.0 million cubic feet
9. June 22, 1979
10. National Gas & Oil Corp.
1. 79–10381
2. 34–167–24252–0014
3. 103
4. Energy Unlimited Inc.
5. John Santone #1
6.
7. Washington, OH
8. 6.0 million cubic feet
9. June 22, 1979
10. River Gas Company
1. 79–10382
2. 34–167–24251–0014
3. 103
4. Energy Unlimited Inc.
5. Cecil Pottmeyer #1
6.
7. Washington, OH
8. 6.0 million cubic feet
9. June 22, 1979
10. River Gas Company
1. 79–10383
2. 34–167–24150–0014
3. 103
4. Energy Unlimited Inc.
5. Donald Arnold #2
6.
7. Washington, OH
8. 2.0 million cubic feet
9. June 22, 1979
10. River Gas Company
1. 79–10384
2. 34–167–23988–0014
3. 103
4. Coleman Brothers Drilling
5. G D & Bessie Skinner #1
6.
7. Washington, OH
8. 14.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.
1. 79–10385
2. 34–075–22080–0014
3. 103
4. Hortin and Huffman
5. David & Wilma Heffelfinger #1
6.
7. Holmes, OH
8. 2.0 million cubic feet
9. June 22, 1979
10. The East Ohio Gas Co.

1. 79–10386
2. 34–083–22520–0014
3. 103
4. Buckeye Crude Exploration Inc.
5. Stachler Well #1
6. Danville Oil & Gas Field
7. Knox, OH
8. 36.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10387
2. 34–115–21718–0014
3. 103
4. Iroquois Oil and Gas Inc.
5. Swallows #3
6.
7. Morgan, OH
8. 13.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10388
2. 34–119–24202–0014
3. 103
4. Iroquois Oil and Gas Inc.
5. Brannon #1
6.
7. Muskingum, OH
8. 16.0 million cubic feet
9. June 22, 1979
10. American Energy Services

1. 79–10389
2. 34–119–24239–0014
3. 103
4. Iroquois Oil and Gas Inc.
5. Brannon #2
6.
7. Muskingum, OH
8. 18.0 million cubic feet
9. June 22, 1979
10. American Energy Services

1. 79–10390
2. 34–083–22585–0014
3. 103
4. Berwell Energy, Inc.
5. Jess W. Gardner No. 1
6.
7. Knox, OH
8. 60.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Company

1. 79–10391
2. 34–119–24240–0014
3. 103
4. Iroquois Oil and Gas, Inc.
5. Brannon #3
6.
7. Muskingum, OH
8. 16.0 million cubic feet
9. June 22, 1979
10. American Energy Services

1. 79–10392
2. 34–115–15350–0014
3. 103
4. Iroquois Oil and Gas, Inc.
5. Swallows #1
6.
7. Morgan, OH
8. 10.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10393
2. 34–115–21715–0014
3. 103
4. Iroquois Oil and Gas, Inc.
5. Swallows #2
6.
7. Morgan, OH
8. 12.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10394
2. 34–119–24255–0014
3. 103
4. Iroquois Oil and Gas, Inc.
5. McCormick-Watson 1A
6.
7. Muskingum, OH
8. 15.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10395
2. 34–119–24378–0014
3. 103
4. Iroquois Oil and Gas, Inc.
5. C St. Clair #1
6.
7. Muskingum, OH
8. 14.0 million cubic feet
9. June 22, 1979
10. American Energy Services

1. 79–10396
2. 34–119–24307–0014
3. 103
4. Iroquois Oil and Gas, Inc.
5. N. G. Prouty 1A
6.
7. Muskingum, OH
8. 16.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10397
2. 34–119–24258–0014
3. 103
4. Iroquois Oil and Gas, Inc.
5. McCormick-Watson 2A
6.
7. Muskingum, OH
8. 16.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10398
2. 34–119–24308–0014
3. 103
4. Iroquois Oil and Gas, Inc.
5. Watson 1–A
6.
7. Muskingum, OH
8. 16.0 million cubic feet
9. June 22, 1979
10. East Ohio Gas Company

1. 79–10399
2. 34–119–24309–0014
3. 103
4. Iroquois Oil and Gas, Inc.
5. Gerald Prouty 1A
6.
7. Muskingum, OH
8. 14.0 million cubic feet
9. June 22, 1979
10. American Energy Services

1. 79–10400
2. 34–005–23182–0014
3. 103
4. M & G Oil Company
5. Hopkins G–1
6.
7. Ashland, OH
8. .3 million cubic feet
9. June 22, 1979
10.

1. 79–10401
2. 34–031–23135–0014
3. 103
4. American Exploration Co.
5. Majorie McCombs #1
6.
7. Coshocton, OH
8. 9.0 million cubic feet
9. June 22, 1979
10. American Energy Services

1. 79–10402
2. 34–127–24241–0014
3. 103
4. Schmelzer Oil
5. John Combs #2
6.
7. Perry, OH
8. 52.0 million cubic feet
9. June 22, 1979
10.

1. 79–10403
2. 34–121–22121–0014
3. 107
4. Tiger Oil, Inc.
5. Davis-Ball #2
6.
7. Noble, OH
8. 3.7 million cubic feet
9. June 22, 1979
10. East Ohio

1. 79–10404
2. 34–059–22002–0014
3. 103
4. Appalachian Exploration, Inc.
5. B. Warden #1
6.
7. Guernsey, OH
8. 6.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp.

1. 79–10405
2. 34–059–22050–0014
3. 103
4. Appalachian Exploration, Inc.
5. Van Fossen #1
6.
7. Guernsey, OH
8. 5.0 million cubic feet
9. June 22, 1979
10. Consolidated Aluminum Corp.

1. 79–10406
2. 34–155–20844–0014
3. 103
4. Ohio Industrial Energy, Inc.
5. Zaugg No. 1—#1122
6.
7. Trumbull, OH
8. 36.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10407
2. 34–155–20858–0014
3. 103
4. Ohio Industrial Energy, Inc.
5. Cupler No. 1—#1139
6.
7. Trumbull, OH
8. 24.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10408

2. 34–155–20857–0014
3. 103
4. Ohio Industrial Energy, Inc.
5. Cupler No. 2—#1140
6.
7. Trumbull, OH
8. 16.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10410
2. 34–155–20953–0014
3. 103
4. Ohio Industrial Energy, Inc.
5. Metropolitan Homes No. 1—#1130
6.
7. Trumbull, OH
8. 18.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10411
2. 34–155–20862–0014
3. 103
4. Ohio Industrial Energy, Inc.
5. Maxin Unit No. 1—#1137
6.
7. Trumbull, OH
8. 29.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10412
2. 34–155–21325–0014
3. 103
4. Ohio Industrial Energy, Inc.
5. Kachurik No. 2—#1127
6.
7. Trumbull, OH
8. 24.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10413
2. 34–155–20713–0014
3. 103
4. Ohio Industrial Energy, Inc.
5. Kachurik No. 1—#1125
6.
7. Trumbull, OH
8. 36.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10414
2. 34–155–20712–0014
3. 103
4. Ohio Industrial Energy, Inc.
5. Gregory-Everitt Unit No. 1—#1110
6.
7. Trumbull, OH
8. 26.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10415
2. 34–155–20856–0014
3. 103
4. Ohio Industrial Energy, Inc.
5. Clemens No. 1—#1134
6.
7. Trumbull, OH
8. 24.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10416
2. 34–155–20474–0014
3. 103
4. Ohio Industrial Energy, Inc.
5. Simyon No. 1—#1087
6.
7. Trumbull, OH
8. 24.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10417
2. 34–155–20961–0014
3. 103
4. Ohio Industrial Energy, Inc.
5. Copperweld No. 4—#1123
6.
7. Trumbull, OH
8. 72.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10418
2. 34–155–20516–0014
3. 103
4. Ohio Industrial Energy, Inc.
5. Armstrong Unit No. 1—#1077
6.
7. Trumbull, OH
8. 44.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10420
2. 34–155–20661–0014
3. 103
4. Ohio Industrial Energy, Inc.
5. Mackey No. 1—#1111
6.
7. Trumbull, OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10421
2. 34–155–20662–0014
3. 103
4. Ohio Industrial Energy, Inc.
5. Kolar Unit No. 1—#1109
6.
7. Trumbull, OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp.

1. 79–10422
2. 34–155–20572–0014
3. 103
4. Ohio Industrial Energy Inc
5. James No 1—#1104
6.
7. Trumbull OH
8. 48.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10423
2. 34–155–20891–0014
3. 103
4. Ohio Industrial Energy Inc
5. Goodman-Rood Unit No 1—#1141
6.
7. Trumbull OH
8. .0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10424
2. 34–155–20663–0014
3. 103
4. Ohio Industrial Energy Inc
5. Goodman Unit No 1—1120
6.
7. Trumbull OH
8. 23.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10425
2. 34–155–20841–0014
3. 103
4. Ohio Industrial Energy Inc
5. Collier No 2A—#1129
6.
7. Trumbull OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10426
2. 34–155–20449–0014
3. 103
4. Ohio Industrial Energy Inc
5. Galida No 1—#1078
6.
7. Trumbull OH
8. 54.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10427
2. 34–155–20737–0014
3. 103
4. Ohio Industrial Energy Inc
5. Collier No 1—#1128
6.
7. Trumbull OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10428
2. 34–155–20581–0014
3. 103
4. Ohio Industrial Energy Inc
5. Bush No 1—#1106
6.
7. Trumbull OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10429
2. 34–155–20985–0014
3. 103
4. Ohio Industrial Energy Inc
5. Burgoon Unit No 1—#1121
6.
7. Trumbull OH
8. 66.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10430
2. 34–155–20861–0014
3. 103
4. Ohio Industrial Energy Inc
5. Baker-Baker Unit No 2—#1138
6.
7. Trumbull OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10431
2. 34–155–20448–0014
3. 103
4. Ohio Industrial Energy Inc
5. K Brainard No 1—#1063
6.
7. Trumbull OH
8. 18.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10432
2. 34–155–20202–0014

3. 103
4. Ohio Industrial Energy Inc
5. Baker-Baker Unit No 1—#1102
6.
7. Trumbull OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10433
2. 34–155–20514–0014
3. 103
4. Ohio Industrial Energy Inc
5. Armstrong Unit No 3—#1080
6.
7. Trumbull OH
8. 42.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10434
2. 34–155–20515–0014
3. 103
4. Ohio Industrial Energy Inc
5. Armstrong No 2—#1079
6.
7. Trumbull OH
8. 46.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10435
2. 34–119–24651–0014
3. 103
4. The Clinton Oil Company
5. Merle Schweitzer #2
6.
7. Muskingum OH
8. 20.0 million cubic feet
9. June 22, 1979
10.

1. 79–10436
2. 34–119–24650–0014
3. 103
4. The Clinton Oil Company
5. Merle Schweitzer #1
6.
7. Muskingum OH
8. 20.0 million cubic feet
9. June 22, 1979
10.

1. 79–10437
2. 34–155–20570–0014
3. 103
4. Ohio Industrial Energy Inc
5. Romanski No 1—#1135
6.
7. Trumbull OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10438
2. 34–155–20576–0014
3. 103
4. Ohio Industrial Energy Inc
5. Monus No 2—#1108
6.
7. Trumbull OH
8. 36.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10439
2. 34–155–20864–0014
3. 103
4. Ohio Industrial Energy Inc
5. Shurtleff Unit No 1—#1132
6.
7. Trumbull OH
8. 24.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10440
2. 34–155–20624–0014
3. 103
4. Ohio Industrial Energy Inc
5. Royal Unit No 1—#1113
6.
7. Trumbull OH
8. 60.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10379
2. 34–009–21886–0014
3. 103
4. Ohio Development Group
5. John Alden #1
6. Shade Pool
7. Athens, OH
8. 18.3 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp

1. 79–10419
2. 34–155–20733–0014
3. 103
4. Ohio Industrial Energy Inc
5. Martin No. 1—#1126
6.
7. Trumbull OH
8. 24.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission Corp., Copperweld Steel Co., Ohio Steel Tube

1. 79–10409
2. 34–155–20983–0014
3. 103
4. Ohio Industrial Energy Inc
5. Metropolitan Homes No 2—#1131
6.
7. Trumbull OH
8. 12.0 million cubic feet
9. June 22, 1979
10. Columbia Gas Transmission 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 on or before August 2, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–22200 Filed 7–17–79; 8:45 am]

BILLING CODE 6450–01–M

Finality of 1977 Oil Pipeline Valuation Reports

July 12, 1979.

Jurisdiction over oil pipelines, as it relates to the establishment of valuations for pipelines, was transferred from the Interstate Commerce Commission (ICC) to the Federal Energy Regulatory Commission (FERC), pursuant to Sections 306 and 402 of the Department of Energy Organization Act, 42 U.S.C. §§ 7155 and 7172, and the Executive Order No. 12009, 42 Fed. Reg. 46267 (September 15, 1977).

The FERC, by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

The Board has issued the tentative 1977 annual valuation reports for the following common carriers by oil pipelines:

Acorn Pipe Line Company, Docket No. PV–1364
Allegheny Pipeline Company, Docket No. PV–1414
Amdel Pipeline, Inc., Docket No. PV–1439
American Petrofina Pipe Line Company, Docket No. PV–1440
Amoco Pipeline Company, Docket No. PV–1302
Arapahoe Pipe Line Company, Docket No. PV–1378
ARCO Pipe Line Company, Docket No. PV–1329
Ashland Pipe Line Company, Docket No. PV–1291
Badger Pipe Line Company, Docket No. PV–1381
Belle Fourche Pipeline Company, Docket No. PV–1430
Black Lake Pipe Line Company, Docket No. PV–1425
Buckeye Pipe Line Company, Docket No. PV–1322
Butte Pipe Line Company, Docket No. PV–1382
Calnev Pipe Line Company, Docket No. PV–1404
Chevron Pipe Line Company, Docket No. PV–1416
Cheyenne Pipeline Company, Docket No. PV–1368
Chicap Pipe Line Company, Docket No. PV–1427
Cities Service Pipe Line Company, Docket No. PV–1312
Collins Pipeline Company, Docket No. PV–1433
Colonial Pipeline Company, Docket No. PV–1422
Continental Pipe Line Company, Docket No. PV–1316
Cook Inlet Pipe Line Company, Docket No. PV–1426
CRA, Inc., Docket No. PV–1341
The Crown Central Pipe Line & Transportation Corporation, Docket No. PV–1352

Crown-Rancho Pipe Line Corporation, Docket No. PV–1365
Diamond Shamrock Corporation, Docket No. PV–1349
Dixie Pipeline Company, Docket No. PV–1411
Emerald Pipe Line Corporation, Docket No. PV–1385
The Eureka Pipe Line Company, Docket No. PV–1338
Explorer Pipeline Company, Docket No. PV–1441
Exxon Pipeline Company, Docket No. PV–1394
Four Corners Pipe Line Company, Docket No. PV–1389
Gulf Central Pipeline Company, Docket No. PV–1436
Gulf Refining Company, Docket No. PV–1333
Hess Pipeline Company, Docket No. PV–1409
Hydrocarbon Transportation, Inc., Docket No. PV–1431
Jayhawk Pipeline Corporation, Docket No. PV–1406
Jet Lines, Inc., Docket No. PV–1413
Kaneb Pipe Line Company, Docket No. PV–1375
Kaw Pipe Line Company, Docket No. PV–1299
Kenai Pipe Line Company, Docket No. PV–1399
Ker-McGee Pipeline Corporation, Docket No. PV–1429
Kiantone Pipeline Corporation, Docket No. PV–1435
Lake Charles Pipe Line Company, Docket No. PV–1419
Lakehead Pipe Line Company, Inc.,Docket No. PV–1354
Laurel Pipe Line Company, Docket No. PV–1403
Marathon Pipe Line Company, Docket No. PV–1392
Michigan-Ohio Pipeline Corporation, Docket No. PV–1357
Mid-America Pipeline System, Docket No. PV–1395
Mid-Valley Pipeline Company, Docket No. PV–1353
Minnesota Pipe Line Company, Docket No. PV–1384
Mobil Pipe Line Company, Docket No. PV–1311
Ohio River Pipe Line Company, Docket No. PV–1292
Olympic Pipe Line Company, Docket No. PV–1417
Paloma Pipe Line Company, Docket No. PV–1420
Phillips Pipe Line Company, Docket No. PV–1320
Pioneer Pipe Line Company, Docket No. PV–1372
Plantation Pipe Line Company, Docket No. PV–1343
Platte Pipe Line Company, Docket No. PV–1367
Portal Pipe Line Company, Docket No. PV–1410
Portland Pipe Line Corporation, Docket No. PV–1347
Powder River Corporation, Docket No. PV–1437
Pure Transportation Company, Docket No. PV–1327
Santa Fe Pipeline Company, Docket No. PV–1428
The Shamrock Pipe Line Corporation, Docket No. PV–1369
Shell Pipe Line Corporation, Docket No. PV–1326
Skelly Pipe Line Company, Docket No. PV–1402
Sohio Pipe Line Company, Docket No. PV–1335
Southcap Pipe Line Company, Docket No. PV–1424
Southern Pacific Pipe Lines, Inc., Docket No. PV–1393
Sun Oil Line Company of Michigan, Docket No. PV–1370
Sun Pipe Line Company, Docket No. PV–1315
Tecumseh Pipe Line Company, Docket No. PV–1386
Texaco-Cities Service Pipe Line Company, Docket No. PV–1300
Texas Eastern Transmission Corporation, (Little Big Inch Division), Docket No. PV–1408
Texas-New Mexico Pipe Line Company, Docket No. PV–1293
The Texas Pipe Line Company, Docket No. PV–1330
Texcoma Pipe Line Company, Docket No. PV–1449 (1976 Report)
Trans Mountain Oil Pipe Line Corporation, Docket No. PV–1379
Trans-Ohio Pipeline Company, Docket No. PV–1412
West Emerald Pipe Line Corporation, Docket No. PV–1388
West Shore Pipe Line Company, Docket No. PV–1396
West Texas Gulf Pipe Line Company, Docket No. PV–1362
White Shoal Pipeline Corporation, Docket No. PV–1421
Williams Pipe Line Company, Docket No. PV–1423
Wolverine Pipe Line Company, Docket No. PV–1377
Wyco Pipe Line Company, Docket No. PV–1355
Yellowstone Pipe Line Company, Docket No. PV–1373.

Section 19a(h) of the Interstate Commerce Act provides that if no protest is filed within thirty days, the valuation shall become final as of the date thereof. Notice is hereby given that no protest to the valuation reports for any of these carriers have been received and that each valuation report is final as of the date it was issued by the Board.

Leon J. Slavin,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 79-22179 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. EL78-6]

Illinois Power Co.; Order Granting Rehearing

July 10, 1979.

Before Commissioners: Charles B. Curtis, Chairman; Don S. Smith,[1] Georgiana Sheldon, and George R. Hall.

On March 23, 1978, the Municipalities of Breese, Carlyle, Freeburg, Highland, Mascoutha, Peru, and Princeton, Illinois (Cities), filed a Petition for Rehearing of the Commission's Order Denying Emergency Petition and Terminating Docket Conditioned On Subsequent Filing, issued February 21, 1978, in the above-captioned docket.

On January 20, 1978, the Cities filed an emergency petition requesting the Commission to issue an order requiring Illinois Power Company (IP) to continue to provide short-term firm power to the Cities beyond January 1, 1978, pursuant to contracts with IP and Section 202(c) of the Federal Power Act. On February 1, 1978, the Commission issued an order recognizing that it did not have jurisdiction to order 202(c) interconnections since such authority had been vested with the Administrator of Economic Regulatory Administration pursuant to the Department of Energy Organization Act (42 U.S.C. 7101) and the Department of Energy Delegation Order No. 0204–4, effective October 1, 1977.[2] However, the Commission recognized that the Cities' petition raised issues which were subject to its jurisdiction as to whether the terms of the interconnection agreement between the Cities and IP obligated IP to supply short-term firm power to the Cities after January 1, 1978. Therefore, the Commission treated the filing as a complaint pursuant to Section 306 of the Federal Power Act, ordered the Commission Staff to undertake an expedited investigation and file a written report with the Commission. The Staff on February 6, 1978, filed its investigative report with the Commission. Based on that report on February 21, 1978, the Commission issued an Order Denying Emergency Petition and Terminating Docket Conditional on Subsequent Filing. On April 21, 1979, the Commission issued an Order Granting Rehearing for Further Consideration of the issues involved in this proceeding.

[1] Commissioner Smith resigned effective June 29, 1979. He was present and voting when this order was approved at the meeting of 6/28/79.

[2] The Cities filed a Petition with the Economic Regulatory Administration requesting relief pursuant to Section 202(c) of the Federal Power Act. Cities' petition was denied March 6, 1978, Docket No. EC78–1.

In their Petition for Rehearing, Cities argue that Staff did not develop an adequate record during its investigation. Cities alleged that "the Staff's unilateral investigation never delved into the central question as to whether IP's conduct was such as to recognize a firm power commitment to each of the Cities under the contract to continue to supply firm power to them" (Petition at p. 4). The Cities also claim that the investigative procedure employed by the Commission denied them their due process rights under the Federal Power Act and the Administrative Procedure Act. The Cities further protest the lack of an evidentiary hearing, including the lack of opportunity to present testimony and cross-examine opposing witnesses. In addition, Cities requested that the Commission consolidate the issue involved in this case with issues then under litigation in Docket Nos. ER77–23, *et al.* and ER77–411, *et al.*, and "reserve final judgment on this question until after a proper evidentiary record has been established" (Petition at p. 7). For the reasons stated below we grant the Cities' Petition for Rehearing.

The investigation conducted in the instant docket resulted in determinations which directly affected the legal rights of the parties. Based on the investigation, the Commission concluded that the parties' contract had not been amended in the manner alleged by the municipalities, and terminated its inquiry. This constituted an adjudication of the parties' contractual rights and obligations no less than if the Commission had determined that the contract had indeed been modified by the parties' subsequent course of dealings. While the Commission is not required in all instances to provide full evidentiary hearings, the facts of the instant case indicates that it is appropriate for the Commission to afford the parties an adjudicatory hearing before issuing a final order. The Commission therefore finds that good cause exists to grant Cities Petition for Rehearing filed March 23, 1978, in this docket and set this matter for evidentiary hearing.

The Cities have requested that the Commission consolidate the issues involved in the present docket with issues which were being litigated in Docket Nos. ER77–23, *et al.* and ER77–411. The records in those dockets have however, now been closed and therefore, the Commission will deny the Cities request for consolidation and set this docket for separate hearing.

The Commission orders: (A) Cities' Petition for Rehearing filed March 23, 1978, is hereby granted except the Cities request for consolidation of this docket with Docket Nos. ER77–23 and ER77–411 which is hereby denied.

(B) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), an evidentiary hearing is hereby ordered.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose shall convene a conference in this proceeding to be held on July 24, 1979, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The designated Administrative Law Judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(D) The Secretary shall cause prompt publication of this order to be made in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22188 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA79-5]

Ken Petroleum Corp.; Petition for Adjustment

July 9, 1979.

On May 23, 1979, Ken Petroleum Corporation (Applicant), by its attorney, Lee D. Vendig, Pickering and Vendig, 1310 Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. SA79–5 for an adjustment under section 103 of the Natural Gas Policy Act of 1978 (NGPA) so as to allow Applicant to receive the maximum lawful price under section 103 for natural gas to be sold from a well to be reentered by Applicant.

Applicant states that on or about July 14, 1947, Perry R. Bass, et al., as Operator, commenced the drilling of the subject well known as the Lacy W. Armour, et al. No. 6 well located approximately 330 feet from the North line and 1,900 feet from the West line of I. & G.N.R.R. Survey No. 21, Abstract No. 239, Wharton County, Texas. Applicant states that the subject well was drilled to a depth of 6,000 feet from the surface of the ground; that it encountered no indications of oil or gas; and that the well was plugged and abandoned on August 1, 1947.

Applicant proposes to reenter and redrill the subject well in order to test a potentially productive zone at a depth of 5,230 to 5,234 feet, but notes that it may have difficulty in maintaining drilling continuity in the subject well and may have to drill new holes to test the projected horizon. Sales of gas from the subject well are dedicated under contract to Florida Gas Transmission. Applicant notes that its proposed operation is not in literal compliance with the requirements of section 103 of the NGPA and therefore seeks this adjustment. Applicant's statements are on file with the Commission and open to public inspection. If granted, this adjustment will allow Applicant to collect the maximum lawful price under section 103 of the NGPA for sales from the subject well.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before July 27, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22187 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA79-4]

Lone Star Gas Co., a Division of Enserch Corp.; Application for Adjustment

June 28, 1979.

Take notice that on May 24, 1979, Lone Star Gas Company, a Division of ENSERCH CORPORATION (Applicant), 301 South Harwood Street, Dallas, Texas, 75201, filed with the Federal Energy Regulatory Commission (Commission) an Application for Adjustment wherein Applicant sought exemption from the requirements of the rules or orders issued under Title II of the Natural Gas Policy Act of 1978 applicable to interstate pipelines.

In Docket No. RM79–14, the Commission issued a notice of proposed rulemaking on June 5, 1979, regarding the pass through, by interstate pipelines and local distribution companies, of certain costs of acquiring natural gas. Applicant

asserts that although it is a "natural gas company" within the meaning of section 1(b) of the Natural Gas Act, it has that status as a result of transportation in interstate commerce rather than because of any sales for resale in interstate commerce. Consequently, Applicant requests that it be exempt from any rule or order of the Commission promulgated under Title II of the Natural Gas Policy Act of 1978.

The rules applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Section 1.41. All petitions to intervene must be filed within fifteen (15) days after publication of this Notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22189 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-367]

Mississippi River Transmission Corp.; Application

July 10, 1979.

Take notice that on June 15, 1979, Mississippi River Transmission Corporation (Applicant), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP79-367 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing October 8, 1979, and operation of facilities to enable it to take into its certificated main pipeline system natural gas which would be purchased or received from producers of other similar sellers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.[1]

Applicant states that the total cost of the proposed facilities would not exceed $2,000,000, and that no single project would exceed $500,000. Applicant proposes to finance the costs of the proposed facilities from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22190 filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

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[1] Applicant requests that its authorization include authorization for facilities which are the subject of the rulemaking proceeding in Docket No. RM79-37 in the event the Regulations should be amended during the pendency of the instant application or effective period of authorization granted prusuant thereto.

[Docket No. CP78-183]

Northwest Pipeline Corp.; Petition To Amend

July 10, 1979.

Take notice that on May 30, 1979, Northwest Pipeline Corporation (Northwest), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP78-183 a petition to amend the order issued April 17, 1979, in the instant docket, pursuant to Section 7(c) of the Natural Gas Act for authorization to transport up to 25,000 Mcf per day of natural gas for the account of Natural Gas Pipeline Company of America (Natural) which Natural would tender to Northwest for transportation from any present or future wells which may be developed in the area covered by the gas purchase, gathering, and transportation agreement, dated December 20, 1977, between Northwest and Natural, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Northwest states that the initial authorization is limited to the volumes of gas which Natural tenders to Northwest at the Bar Creek No. 1 Federal well in Grand County, Utah. Upon receipt of volumes of gas from Natural, subject to Northwest's option to purchase up to 25 percent of such volumes, Northwest would redeliver, by displacement, thermally equivalent volumes reduced by Natural's *pro rata* share of any compressor fuel utilized in transporting such volumes, to El Paso Natural Gas Company (El Paso) at Ignacio, Colorado for Natural's account, it is indicated.

The proposed transportation authorization would permit the timely connection of volumes of natural gas available to Natural and would eliminate the need to file a petition to amend each time an additional well is developed, Northwest asserts.

The petition indicates that Natural has informed Northwest that it has acquired a supply of natural gas from a second well, the Palmer State No. 32-1, which is located in the area covered by the said transportation agreement and Natural desires to make available to its own pipeline system the volumes of natural gas acquired from the Palmer State No. 32-1 well and from additional wells to be developed in the future in Unitah and Grand Counties. Northwest states that the rates to be charged by

Northwest, in the future, for providing the proposed transportation service would be the then effective mainline transportation rate and area gathering rate under Northwest's Special Rate Schedule X–53, as set forth in its FERC Gas Tariff, Originial Volume No. 2.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–22191 Filed 7–17–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER79–324]

Public Service Co. of Indiana, Inc.; Order Suspending Cancellation of Schedule, Denying Waiver of Notice, and Establishing Procedures

Issued June 29, 1979.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, and George R. Hall.

On April 23, 1979, Public Service Company of Indiana, Inc. (PSCI), tendered for filing a Notice of Cancellation of its Fuel Conservation Power and Energy Service schedule (service schedule F.) PSCI's Conservation schedule is applicable to its Interconnection Agreement dated February 21, 1964, between Indiana and Michigan Electric Company (I&M) and PSCI. PSCI requests that this Commission waive its 60-day notice requirement pursuant to § 35.11 of the Commission's Rules and Regulations and establish an effective expiration date of December 31, 1974, when the conservation schedule expired by its own terms. PSCI has filed no superseding conservation schedule.

Notice of the filing was issued on April 26, 1979, with comments, protests or petitions to intervene due on or before May 18, 1979. No comments, protests, or petitions to intervene have been filed. On May 2, 1979, I&M filed a certificate concurring with PSCI's filing.

In a recent order, this Commission consolidated proceedings in a number of dockets for purposes of establishing "comprehensible and comprehensive interchange arrangements under which crisis-related transactions should take place." [1] Our concern over rates to be used during emergency situations has prompted us to designate an officer to conduct an investigation into transactions related to the coal strike as well as the use of coal-by-wire conservation schedules.

In light of our concerns regarding energy conservation rates, the Commission finds that PSCI's proposed cancellation of its energy conservation rate schedule may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. The commission further finds that good cause has not been shown to allow waiver of notice requirements pursuant to § 35.11 of the Commission's Rules and Regulations. Therefore, the Commission will suspend cancellation of service Schedule F for five months for purposes of investigating whether the cancellation is just and reasonable, including what plans I&M and PSCI have for future energy conservation transactions.

The Commission Orders: (A) PSCI's proposed cancellation of Service Schedule F is suspended for five months to become effective December 1, 1979.

(B) PSCI's request for waiver of notice requirement pursuant to § 35.11 is hereby denied.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the DOE Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the service change proposed by the Public Service Company of Indiana in this proceeding.

(D) An Administrative Law Judge shall be designated by the Chief Administrative Law Judge for purposes of convening a conference in this proceeding. Such Conference shall be held within 30 days of issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Law Judge is authorized to establish all procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedures.

(E) The Secretary shall cause prompt publication of this order to be made in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–22192 Filed 7–17–79; 8:45 am]

BILLING CODE 6450–01–M

[1] Order Consolidating Proceedings And Providing For Prehearing Conference, *Indiana and Michigan Electric Company, et al.*, Docket Nos. ER78–229, *et al.*, Issued May 14, 1979. (p.3)

[Docket No. GP79–41]

State of New Mexico, Section 102 NGPA Determination, Harvey E. Yates, Co., Two Wells; Preliminary Finding

Issued July 6, 1979.

On May 22, 1979, the New Mexico Oil Conservation Division submitted to the Commission a notice of determination which states that two wells [1] meet all the requirements of the new onshore reservoir provision in section 102(c)(1)(C) of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. No. 95–621. The Commission published notice of the determination in the **Federal Register** on June 13, 1979, at 44 FR 33930.

According to section 102(c)(1)(C)(ii) of the NGPA, a reservoir shall not qualify as a new onshore reservor if it was penetrated before April 20, 1977 by an old well from which natural gas or crude oil was produced in commercial quantities, and 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 subject reservor (Queen formation) was completed prior to April 20, 1977, by the State 22 Well No. 1 from which crude oil was produced in commercial quantities prior to April 20, 1977. The casinghead gas produced in conjunction with oil has been vented.

Since the subject reservoir was penetrated by an old well which produced crude oil in commercial quantitities and the reservoir demonstrated its capability to produce natural gas through such old well prior to April 20, 1977, the reservoir is subject to the behind-the-pipe exclusion in section 102(c)(1)(C)(ii) and is not a new onshore reservor as defined in the NGPA.

Accordingly, the Commission hereby makes a preliminary finding (pursuant to

[1] State 22 Well No. 1 and the Mobil 27 State Well No. 1.

§ 275.202(a)(1)(i) that the determination submitted by the New Mexico Oil Conservation Division 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. 79-22193 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP76-242, etc.]

Transcontinental Gas Pipe Line Corp. et al.; Motion for Waiver of Certificate Condition

July 5, 1979.

Take notice that on June 22, 1979, Cone Mills Corporation (Movant), 1201 Maple Street, Greensboro, North Carolina 27405, filed in Docket Nos. CP76-242, CP76-249, and CP76-270 a motion for waiver or other modification of certain end-use restrictions in the orders issuing certificates of public convenience and necessity in said dockets pursuant to Section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) to Transcontinental Gas Pipe Line Corporation, Southern Natural Gas Company, and Gas Gathering Corporation, respectively, authorizing the transportation of natural gas in interstate commerce for Movant, all as more fully set forth in the motion on file with the Commission and open to public inspection.

The certificate holders in the instant dockets are authorized to transport up to 3,000 Mcf per day of natural gas for Movant for process use in Movant's plants in North Carolina and South Carolina to replace deliveries of natural gas curtailed by traditional suppliers. Movant states that because of increased flowing gas supplies from its local distributor-suppliers and because one of these suppliers, Carolina Pipeline Company, prohibits Movant from taking its direct-purchase gas if gas is available from the distributor, Movant has been using an average of 840 Mcf per day of its direct-purchase gas. Movant is said to be required to take or pay for 1,200 Mcf per day of gas under its direct-purchase contract. Thus, Movant is said to be unable to take all of the direct-purchase gas which would otherwise be available and for which it must pay.

The instant motion states that Movant is using fuel oil as boiler fuel in equipment with installed alternate fuel capability to burn natural gas. Absent the end-use restrictions in the certificates authorizing the transportation in the instant dockets, Movant represents, Movant would be able to take direct-purchase gas in volumes to permit it to reduce fuel oil consumption by between 66,000 amd 399,000 gallons per month.[1] In order to reduce fuel oil requirements and to alleviate its take-or-pay obligation, Movant requests that the certificate order be amended by waiving or otherwise modifying the end-use restrictions on the transported direct-purchase gas.

Any person desiring to be heard or to make any protest with reference to said motion should on or before July 20, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22194 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-369]

Transcontinental Gas Pipe Line Corp.; Application

July 10, 1979

Take notice that on June 18, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-369 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Transco to transport, under its Rate Schedule T, up to 30,000 dekatherms per day equivalent of natural gas on an interruptible basis for The Brooklyn Union Gas Company (BUG), one of Transco's CD-3 customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that BUG, one of Transco's resale customers served under Rate Schedule CD-3, has purchased a supply of liquefied natural gas (LNG) from Distrigas of Massachusetts Corporation and will arrange to have the natural gas equivalent of up to 30,000 dekatherms of such LNG per day delivered to Algonquin Gas Transmission Company, which would concurrently reduce its takes of gas from Texas Eastern Transmission Corporation (Texas Eastern) by an equal amount. Texas Eastern would deliver the stated quantities to Transco at existing interconnections between Texas Eastern and Transco near Lambertville and Linden, New Jersey.

Transco states it then would transport and deliver equivalent quantities to BUG at existing points of delivery to that customer.

Transco indicates it would charge an initial rate of 7.0 cents per dekatherm for all quantities delivered and would retain initially 6 percent of the quantities received for transportation as make-up for compressor fuel and line loss, pursuant to Rate Schedule T.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

[1] The motion states that approximately 66,373 gallons per month would be displaced if Movant were able to take gas up to its minimum take-or-pay obligation of 1,200 Mcf of gas per day while approximately 398,537 gallons could be displaced if Movant were able to take its fully authorized volume of 3,000 Mcf of gas per day.

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be necessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22195 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP77-19]

Transwestern Pipeline Co.; Order Approving Stipulation and Agreement Subject to Conditions and Setting Reserved Issues for Hearing

Issued July 9, 1979.

Before Commissioners: Charles B. Curtis, Chairman; Georgian Sheldon, and George R. Hall.

On June 26, 1978, Transwestern Pipeline Company (Transwestern) submitted in the captioned docket a proposed Stipulation and Agreement in settlement of such proceeding. The Federal Energy Regulatory Commission (Commission) finds that the proposed Stipulation and Agreement is reasonable and should be approved, as conditioned below. The Commission further finds that the reserved issues should be set for hearing as hereinafter provided. Details of the revenue refund proposals and the terms of the related settlement agreement are described below.

In Docket No. RP77-19, Transwestern, on December 1, 1976 tendered for filing eleven revised tariff sheets [1] to its FERC Gas Tariff, Second Revised Volume No. 1 reflecting: (1) a proposed increase in annual revenues of $38,977,288; (2) a $10 unauthorized overrun penalty; (3) an increase in its annual interest rate on unpaid bills From 6% to 9%; and (4) a proposal to amend to 30 days the filing and notice requirements of the tracking provisions in its gas tariff in accordance with the Commission's Regulations. On May 31, 1977, Transwestern requested withdrawal of First Revised Sheet No. 24 since no changes in the text were made in its revision. Withdrawal was granted by the Commission's letter dated June 23, 1977.

The Commission, in its order issued December 29, 1976, suspended the revised tariff sheets for five months to become effective June 1, 1977, subject to refund and directed Staff to prepare and serve its Top Sheets on or before April 1, 1977. An extension of time was granted for service of staff's Topp Sheets which were subsequently filed on May 25, 1977. The proposed settlement, which was certified as corrected to the Commission on July 13, 1978, by Judge Jensen, is the result of several conferences held between Transwestern, the Staff, and the intervenors.

[1] First Revised Sheet Nos. 1, 23, 24, 50, 63, 64, 74, 76, 78, and Sixth Revised Sheet Nos. 5 and 6.

Discussion of Interim Rates

The proposed interim rates shown in Appendix D hereto represent an attempt by the parties to refund revenues in excess of the settlement cost of service to the customers in a timely fashion. It was apparant that, due to the reserved issues herein and in Docket No. RP75-74, the determination of the final rates to be charged would be delayed, and it was further apparent that refunds would be due notwithstanding the reserved issues. The interim rates are those rates Transwestern will charge pending determination of the final rates. The interim rates were designed with the intent of exposing Transwestern to minimal risk of undercollecting of its cost of service.

Originally Staff objected to the provision agreed to by all other parties to the Stipulation that Transwestern should not be subject to undercollection of its cost of service as a result of its having made interim refunds. On March 30, 1979, Staff filed a pleading in which it withdrew its opposition to the aforementioned provision. The proposed agreement provides for interim refunds to be paid prior to the resolution of certain reserved issued concerning cost allocation which might subject Transwestern to undercollections.

The interim refund rates were designed to limit Transwestern's exposure to undercollections resulting from a final decision on reserved issues.

Stipluation and Agreement

The proposed Agreement consists of nine Articles and three Appendices as summarized below.

Article I provides that Transwestern shall file, within 20 days of Commission approval of the Agreement, revised tariff sheets reflecting the interim rates listed in Appendix C hereto. It further provides that within 20 days of final determination of issues reserved herein and in Docket No. RP75-74, Transwestern shall file tariff sheets reflecting the effect of the final determinations. The tariff sheets shall become effective on the first day of the second month following the date any such Commission order becomes final. As used in this Stipulation and Agreement, the term "final" in reference to Commission orders means an order of the Federal Energy Regulatory Commission or, where appropriate, to its predecessor the Federal Power Commission.

Article II states that final refunds will be determined subsquent to final Commission action on the reserved issues and further states that Transwestern shall make interim refunds, including interest, in an amount equal to the difference between the filed rates and the interim rates listed in Appendix D. It specifies that final refunds, including interest, shall be made within 30 days after the date Transwestern begins charging rates reflecting final determinations of all reserved issues.

Under Article III revenues received pursuant to Section 2.68 of the Commission's Rules, Commission Order No. 533, and Rate Schedule TP-1, less fuel costs, shall be credited to Transwestern's jurisdictional customers on a prorated basis. This article sets the rate of return at 10.12%. This article revises Transwestern's PGA provisions to provide for carrying charges on the balance of Transwestern's Gas Cost Adjustment Account and further stipulates that the PGA carrying charge provision are subject to the Commission's final Order in Docket R-406 and shall be modified or deleted accordingly.

Article IV sets out the reserved issues as follows:

(1) The parties agreed that the appropriate depreciation rates; the appropriateness of the conversion of Transwestern's FERC Gas Tariff Volume No. 1 from a volume basis to a dekatherm basis; the appropriateness of the reallocation of volumes among rate schedules resulting from the volume to dekatherm conversion, whether such volumes reallocated after October 1, 1975, should be paid back, and if so, the terms and conditions of such payback; and the appropriateness of the conversion of Transwestern's cost allocation from a volume basis to a dekatherm basis determined by final Commission order in Docket No. RP75-74 shall be applied and utilized with respect to the rates and in the manner provided in the Stipulation and Agreement. No such agreement was made with respect to the Research and Development issues associated with the WESCO project, however, and Transwestern retains its right to further hearing on such issues insofar as the rates in RP77-19 are concerned and to offer evidence in support of its right to Research and Development treatment for such costs, provided it files its petition therefore within sixty (60) days following the date the Commission's

decision thereon in Docket No. RP75–74 becomes final.

(2) As a condition to approving this Stipulation and Agreement, the People of the State of California and the California Public Utilities Commission have required, and Transwestern has agreed, that the issues whether Transwestern should be required to reflect in its cost of service consolidated income tax savings shall be reserved for hearing and determination by the Commission. In addition, Transwestern shall be permitted to have determined in this rate proceeding the issue of whether circumstances exist warranting cost of service treatment for gas produced by Transwestern or its affiliate, Transwestern Gas Supply Company, from leases which such companies may hold, or may hereafter acquire, and the Commission's regulations shall be waived to reflect the effect, if any, of such determination in Transwestern's rates as of June 1, 1977.

Article V provides a mechanism by which changes in the costs paid to others for transportation arrangements and revenues collected under Transwestern's TS–1 and TS–2 rate schedules can be reflected in Transwestern's jurisdictional rates through the utilization of a Deferred Transportation Cost Account and Transportation Surcharge Adjustments to be effective April 1 and October 1 of each year. Further, it provides that the Commission and all jurisdictional customers shall be notified of any rate change pursuant to this Article within 30 days of any change.

Article VI provides for Advance Payments Tracking pursuant to contracts entered into under Commission Orders issued in Docket No. RM74–4. It states that Transwestern may, no more than twice annually, file and place into effect subject to a one day suspension, changes in rates designed to give effect to changes in its rate base of Advance Payments and Repayments. Transwestern will, to the extent practicable, make rate change filings hereunder effective to coincide with the effective date of Transwestern's PGA rate changes in order to accomodate Pacific Gas Lighting Service Company, which is limited in the number of annual rate increase filings it can make by the California Public Utilities Commission. The amount of the rate increase shall be calculated by deducting Repayments during the applicable period from the total amount of Advance Payments and multiplying the balance by 18.56%. Any change hereunder shall be placed in the commodity component of Transwestern's rates.

Article VII states that the Agreement shall not become effective unless: (1) The Commission enters a final Order, within 45 days from the date of the Agreement, approving all of the terms and provisions of the Agreement without modification or condition unless Transwestern, by filing written notification, waives the requirements that the Commission's Order become final; and (2) The Commission's final Order waives compliance by Transwestern with the requirements of the Commission's Regulations to the extent necessary to allow the Agreement to become effective and further that the Order shall provide that the rate increases and reductions pursuant to the Agreement shall become effective as of the dates specified herein without suspension or conditions.

Article VIII provides for the Agreement to become effective June 1, 1977, and, except for the Agreements in Articles, I, II, III, IV, V, and VI, shall terminate on the date that a general rate increase filing by Transwestern is made effective or on the effective date of any change in rates resulting from a rate proceeding instituted against Transwestern.

Article IX states that if the Agreement is not accepted in its entirety, without condition, it shall be of no effect. Further, it states that the Agreement represents a dollar settlement and no party shall be deemed to have approved or agreed to any principle underlying the proposed rates or refunds.

As noted above, Article IV states Transwestern shall have an opportunity to retry the appropriateness of the WESCO project expenditures if Transwestern files a petition within 60 days from the date the decision in Docket No. RP75–74 becomes final on rehearing.[2] However, no provision is made for treatment of WESCO project expenses if the final decision in Docket No. RP75–74 is adverse to Transwestern and Transwestern fails to exercise its 60 days option discussed in Article IV. Accordingly, it is appropriate that our acceptance of the settlement be conditioned to provide that if in the circumstances discussed in the previous sentence Transwestern does not file a petition pursuant to Article IV within sixty days from the date the decision in Docket No. RP75–74 becomes final on rehearing, Transwestern shall make refunds including interest at the rate prescribed in 18 CFR 154.67 of all costs reflected in the settlement rates associated with the WESCO project.

The Commission finds that the settlement reached is reasonable and that approval, as hereinafter ordered and conditioned, of the Stipulation and Agreement of Transwestern Pipeline Company in Docket No. RP77–19 as certified to the Commission on July 13, 1978, is in the public interest in carrying out the provision of the Natural Gas Act. The Commission further finds that the rates proposed therein which reflect the terms of the settlements should be made effective as provided in such Stipulation and Agreement.

The Commission finds that good cause exists to set for hearing the issues reserved therefore in the subject Stipulation and Agreement in Docket No. RP75–74.

The Commission orders:

(A) The Stipulation and Agreement certified as corrected to the Commission on July 13, 1978, be accepted and approved, subject to the terms and conditions contained in the agreement in this order.

(B) That in accordance with the terms of the Agreement, Transwestern shall:

(1) file, within 20 days following Commission approval of this agreement, Revised Tariff Sheets reflecting the interim rates;

(2) file, within 20 days following final Commission action on the issues reserved herein and in Docket No. RP75–74, Revised Tariff Sheets reflecting the effect of such final action;

(3) make interim Refund plus accrued interest within 30 days following the date Transwestern first begins to charge the interim rates;

(4) make final refunds plus accrued interest within 30 days following the date Transwestern first begins to charge rates reflecting final Commission action on all issues reserved herein and in Docket No. RP75–74;

(5) credit to its jurisdictional customers on a prorated basis, the revenues received pursuant to § 2.68 of the Commission's Rules, Commission Order No. 533, and Rate Schedule TP–1 less fuel costs;

(6) reflect in its jurisdictional rates through a Transportation Surcharge Adjustment Changes in the costs paid to others for transportation arrangements and revenues collected under Transwestern's TS–1 and TS–2 rate schedules.

(C) Our acceptance of the settlement is conditioned upon the requirement that Transwestern, in the event of an adverse decision on the WESCO costs in Docket No. RP75–74, make

[2] This provision presumably would only be exercised by Transwestern in the event of a final adverse decision on the merits in Docket No. RP75–74 on this issue.

appropriate refunds, plus interest at the rates prescribed in § 154.67(c) of the Regulations, of costs associated with the WESCO project as stated in Article IV, if it does not exercise its right reserved in settlement to file additional evidence on Research and Development issues within sixty days from the date the decision in Docket No. RP75–74 becomes final on rehearing.

(D) Within 30 days of the date of issuance of this order, the Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a prehearing conference in this proceeding to establish such further procedural dates as may be necessary, and to rule upon all motions as provided for in the rules of practice and procedure to provide for the resolution of the issues reserved for hearing in Article IV, i.e. whether Transwestern should be required to reflect consolidated income tax savings in its cost of service; and whether circumstances exist warranting cost of service treatment for gas produced by Transwestern or its affiliate, Transwestern Gas Supply Company, from leases such companies may hold or may hereafter acquire.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–22196 Filed 7–17–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP 79–372]

United Gas Pipe Line Co. et al.; Application

July 10, 1979.

Take notice that on June 18, 1979, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, Michigan Wisconsin Pipe Line Company (Mich Wisc), One Woodard Avenue, Detroit, Michigan 48226, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001 (Applicants), filed in Docket No. CP 79–372 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to construct, own, and operate pipeline and related facilities to connect gas supplies located in High Island Blocks A–355 and A–356 (A–355 Field), offshore Texas, to the authorized pipeline system of High Island Offshore System (HIOS), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants propose to construct, own, and operate facilities to be located in the High Island Area, East Addition, South Extension, offshore Texas. It is stated that the proposed facilities are required to deliver to HIOS natural gas from the A–355 Field to be purchased by Applicants in the same ratio as their individual interests in the A–355 Field.[1]

The A–355/356 facilities would consist of two segments as set forth below:

(i) 3.34 miles of 12¾ inch or nominal 12-inch pipeline and related facilities to commence at the producer's platform in Block A–356 and extend to a tie-in on HIOS's junction platform located in Block A–343; and

(ii) 3.31 miles of 12¾ inch or nominal 12-inch pipeline and related facilities to commence at the producer's platform in Block A–355 and extend to a subsea tap on the proposed 12-inch line, connecting A–356.

Applicants state that capacity entitlement of the A–355/356 facilities would be predicated upon percentage interests acquired in supplies located in Blocks A–355 and A–356. Transco has no interest in Block A–356 and therefore, its ownership in the A–355/356 facilities would be based solely upon the extent to which subject facilities would be utilized for deliveries to HIOS of Transco's gas from Block A–355.

It is indicated that by utilizing United's, Mich Wisc's and Transco's rights in HIOS, the A–355 Field gas would be delivered to HIOS for further transport onshore for the accounts of Applicants.

The cost of construction of the A–355/356 facilities is estimated to be $6,196,322, and such cost would be borne by Applicants in proportion to their respective ownership interests and/or to the extent the A–355/356 facilities would be utilized as hereinbefore described.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–22197 Filed 7–17–79; 8:45 am]

BILLING CODE 6450–01–M

[1]

Block	Producer	Pipeline purchaser	Percent interest
A–355.	Pennzoil Oil and Gas, Inc.	United	11.33
	Pennzoil Louisiana and Texas Offshore, Inc.	United	8.81
	Pogo Producing Co	United	13.19
	Cities Service Co	Mich Wisc	33.34
	Getty Oil Co	Transco	33.33
			100.00
A–356.	Pennzoil Oil and Gas, Inc.	United	12.01
	Pennzoil Louisiana and Texas Offshore, Inc.	United	15.00
	Pogo Production Co.	United	17.99
	AMAX Petroleum Corp.	United	10.00
	Cities Service Co	Mich Wisc	45.00
			100.00

[Docket No. SA79–2]

Verdigris Gathering System, Inc., and J. V. Atkinson; Application for Adjustment

June 28, 1979.

Take not that on April 17, 1979, Verdigris Gathering System, Inc. and J. V. Atkinson jointly filed with the Federal Energy Regulatory Commission an application for adjustment under 18 CFR §§ 1.41 *et seq.* and Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. No. 95–621. Both applicants are located at 806 Building of the Southwest, Midland, Texas 79701.

The applicants seek recovery, pursuant to 18 CFR 271.1105–1106, of substantial gathering and compression

costs connected with natural gas deliveries to Cities Service Gas Company (Cities) through applicants' Wimer Compression Station in Craig County, Oklahoma. Recovery of these costs would be through a cost rebate of $0.70 per Mcf paid by Cities as an expense included in its base rate.

The applicants are currently seeking a determination from the Oil and Gas Conservation Commission of the Oklahoma Corporation Commission that this gas delivered to Cities qualifies for the maximum lawful price of Section 108 (gas from stripper wells) of the NGPA. If the applicants were to receive a final, favorable determination that the gas qualifies for the price of Section 108, approval of the their request in this proceeding would mean that the $0.70 per Mcf could be charged in addition to the price allowed by Section 108.

The procedures which apply to the conduct of this staff adjustment proceeding can be found at 18 CFR 1.41 *et seq.* See also Commission Order No. 24 (March 22, 1979).

Any person desiring to participate in this adjustment proceeding must file a petition to intervene in accordance with the provisions of 18 CFR 1.41(e). All petitions to intevene must be filed no later than July 23, 1979 and should be sent to the Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C., 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-22198 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

[DOE/EIS-0046-D]

Management of Commercially Generated Radioactive Waste; Public Hearings on Draft Generic Environmental Impact Statement on Management of Commercially Generated Radioactive Waste

AGENCY: Department of Energy.

ACTION: Notice of additional Public hearings on draft Generic Environmental Impact Statement (GEIS).

SUMMARY: The Department of Energy (DOE) announces the date, place, and procedures for additional public hearings on its draft GEIS. The purpose of these hearings is to provide opportunity for interested persons to provide their comments orally on the draft GEIS. The draft GEIS contains an evaluation of the environmental impacts of alternate strategies for the permanent isolation of commercially-generated high-level and transuranic radioactive wastes. A notice of the availability of the draft GEIS and general information on the public hearings was published in the **Federal Register** on April 20, 1979 (44 FR 23569). The date, place and procedure for the first public hearing which was held in Washington, D.C. on June 26–27, 1979 were published in the **Federal Register** on June 1, 1979 (44 FR 31699).

HEARING DATES AND LOCATIONS: Hearings will be held in Chicago, Illinois on August 8–9, 1979, in Hermann Hall of the Illinois Institute of Technology, 3300 South Federal Street; in Atlanta, Georgia on September 25–26, 1979 in the Atlanta Civic Center, 395 Piedmont Avenue, N.E.; in Dallas, Texas on October 2–3, 1979 in the Dallas Convention Center, Room S–412, 650 South Griffin; and in San Francisco, California on October 8–9, 1979 in the Hyatt Union Square, Plaza Ballroom West at 345 Stockton Street.

SUPPLEMENTARY INFORMATION:

I. Conduct of Hearings

In each of the above cities, to the extent requests for participation warrant, hearings will be conducted on the first day from 9:00 am to 10:00 pm with recesses from 12:00 noon to 2:00 pm and from 5:00 pm to 7:00 pm. Hearings on the second day will be from 9:00 am to 5:00 pm with a recess from 12:00 noon to 2:00 pm.

DOE reserves the right to arrange the schedule of presentations to be heard and to establish additional procedures governing the conduct of hearing. The length of each presentation will be limited, based on the number of persons requesting to be heard.

Questions may be asked only by those conducting the hearing. Cross examination of persons presenting statements will not be permitted. Anyone present who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented for answer.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Additional copies of the complete transcript will also be available at the public document centers noted below. Any person may purchase a copy of the transcript from the reporter.

After all hearings have been conducted, the hearing board will prepare a report identifying significant issues raised during the hearings which should be addressed in the final GEIS. This report will be used by DOE in the preparation of the final GEIS.

II. Participation

Any individual who desires may make a written or oral request to DOE for an opportunity to be scheduled to make a oral presentation at one of the hearings. Written requests to participate in the hearings should be received by the Division of Waste Isolation, Department of Energy, no later than 10 days before the hearing date. Requestors may also make telephone requests to speak no later than 10 days before the hearing date to any of the following: DOE's HQ in Germantown, MD Office (301) 353–4068; DOE's Chicago Office (312) 353–5761; DOE's Dallas Office, (214) 749–7345; DOE's Atlanta Office, (404) 881–2838; and DOE's San Francisco Office (415) 556–4953. Requestors should provide a phone number where they can be reached. Each person scheduled to speak will be notified by DOE by phone of the time scheduled for their presentation and the amount of time available.

Individuals not making an advance request to speak at a hearing may register to speak at the hearing. An opportunity to speak will be provided to these individuals if time permits. Time for these unscheduled presentations will be limited depending on the number of requests received and time available.

III. Purpose of the Draft GEIS

DOE has the reponsibility for developing the technology required for managing commercial radioactive wastes in an environmentally-acceptable manner. This draft GEIS is intended to provide environmental input for the selection of an appropriate program strategy for the permanent isolation of commercially-generated high-level and transuranic wastes. The scope of such a strategy includes research and development into alternative treatment processes and emplacement media, site investigations into candidate media, and the examination of advanced waste management technologies.

IV. Written Comments

The **Federal Register** notice of April 20, 1979 (44 FR 23589) invited interested parties to submit written comments on the draft GEIS to the DOE address above. A supplemental notice, July 3, 1979 (44 FR 38994), extended the written comment period to October 4, 1979.

V. Availability of Draft GEIS

Copies of the draft GEIS have been distributed to Federal, State and local agencies, organizations, and individuals known to be interested in radioactive waste isolation. Additional copies may be obtained at the following location:

ONWI Library, 505 King Avenue, Columbus, Ohio 43201.

Copies of the Draft GEIS are also available for public inspection at:

Public Reading Room, FOI. Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, New Mexico.
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, 1358 Broadway, Denver, Colorado.

For further information contact:

Dr. Colin A. Heath, Director, Division of Waste Isolation, Department of Energy, MS–B–107, Washington, D.C. 20545, 301/353–4068.
Dr. Robert J. Stern, Acting Director, NEPA Affairs Division, Department of Energy, MS E–201, Washington, D.C. 20545, 202/376–5998.
Mr. Stephen H. Greenleigh, Acting 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. 20545, 202/252–4296.

Dated at Washington, D.C., this 13th day of July, 1979. For the United States Department of Energy.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 79–22313 Filed 7–17–79; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1273–8]

Distribution of Funds for Water Quality Management Grants Under the Clean Water Act

In accordance with regulations of the Environmental Protection Agency (EPA) governing grants for Water Quality Management (40 CFR 35.1535, published May 23, 1979, in the **Federal Register**), EPA is publishing information on the distribution and use of funds under sections 106 and 208 of the Clean Water Act (33 U.S.C. sections 1256, 1288).

For fiscal year 1979, section 106 funds in the amount of $52.4 million have been allotted to States and Interstate agencies on the same basis as in the last several years (see Appendix A for amounts, Appendix B for the formula basis). As stated in 40 CFR 35.1535–1(a), the allotments are not absolute entitlements. The amount of the award which each State and Interstate agency receives from its allotment is based on negotiations with the Regional Administrator (for the States, such negotiations occur as part of the process of developing State/EPA Agreements). FY 1980 funds will be allotted on the same basis. For fiscal year 1981 and subsequent years, EPA plans to use an updated allotment process currently under development.

FY 1978 and FY 1979 funds under section 208 in the amount of $93 million have been allocated to the EPA Regions based on a 70%/30% gross population and land area formula (see Appendix C for amounts). Thus sum includes $58 million allocated in FY 1978 and $35 million allocated in FY 1979. In addition, $6 million are being allocated specifically to prototype projects selected under the National Urban Runoff Program (NURP). The amount of each award of 208 funds is based on negotiations between the Regional Administrator and the State or areawide management agency. As with section 106 funds, EPA plans to refine the distribution process for future fiscal year appropriations.

Appendix A—FY 1979 Section 106 Funding

Region I:	
Connecticut	$802,700
Maine	577,500
Massachusetts	1,246,400
New Hampshire	355,900
Rhode Island	546,900
Vermont	260,400
NEIWPCC	235,000
Regional total	4,024,800
Region II:	
New Jersey	1,434,800
New York	2,886,400
Puerto Rico	852,700
Virgin Islands	384,000
ISC	285,800
Regional total	5,843,700
Region III:	
Delaware	442,700
District of Columbia	436,600
Maryland	883,900
Pennsylvania	2,345,100
Virginia	1,317,900
West Virginia	685,300
DRBC	232,400
INCOPOT	149,200
SRBC	85,400
Regional total	6,558,500
Region IV:	
Alabama	1,395,000
Florida	1,350,100
Georgia	1,632,900
Kentucky	770,500
Mississippi	799,700
North Carolina	1,924,000
South Carolina	1,042,700
Tennessee	947,200
ORSANCO	351,200
Regional total	10,193,300
Region V:	
Illinois	1,959,200
Indiana	1,097,800
Michigan	1,875,000
Minnesota	981,900
Ohio	1,998,500
Wisconsin	1,482,300
Regional total	9,394,700
Region VI:	
Arkansas	774,600
Louisiana	883,400
New Mexico	302,800
Oklahoma	580,100
Texas	1,935,700
Regional total	4,476,600
Region VII:	
Iowa	761,800
Kansas	552,500
Missouri	923,700
Nebraska	602,500
Regional total	2,840,500
Region VIII:	
Colorado	491,700
Montana	359,500
North Dakota	226,700
South Dakota	235,400
Utah	322,200
Wyoming	171,600
Regional total	1,807,100
Region IX:	
Arizona	426,900
California	3,086,000
Hawaii	371,200
Nevada	183,300
American Samoa	81,700
Guam	388,100
Trust Territories	126,400
Northern Marianas	50,300
Regional total	4,713,900
Region X:	
Alaska	158,800
Idaho	408,000
Oregon	858,300

Appendix A—FY 1979 Section 106 Funding—Continued

Washington	1,121,800
Regional total	2,546,900
Grand total	52,400,000

Appendix B.—Basis for allotments in Appendix A.

The following is a reprint of the provision of superseded regulations which sets forth the basis for 106 allotments (40 CFR 35.553, 41 FR 17696, April 27, 1976):

§ 35.553 State and interstate allotments.

(a) Funds appropriated for each fiscal year will be allocated to State and interstate agencies on the basis of the extent of the pollution problem. State allotment ratios are based on a count of pollution sources for each State compared to a count of pollution sources in the Nation. Interstate allotment ratios are based on the level of funding received in fiscal year 1973. The table below lists the allotment ratios for each State and interstate agency, which will be applied against the total sums available nationally to determine individual State and interstate agency allotments:

State Allotment Ratios

Alabama	0.02732
Alaska	.00311
Arizona	.00836
Arkansas	.01517
California	.06044
Colorado	.00963
Connecticut	.01572
Delaware	.00867
District of Columbia	.00855
Florida	.02644
Georgia	.03198
Hawaii	.00727
Idaho	.00799
Illinois	.03837
Indiana	.02150
Iowa	.01492
Kansas	.01082
Kentucky	.01509
Louisiana	.01730
Maine	.01131
Maryland	.01731
Massachusetts	.02441
Michigan	.03672
Minnesota	.01923
Mississippi	.01527
Missouri	.01809
Montana	.00704
Nebraska	.01180
Nevada	.00359
New Hampshire	.00697
New Jersey	.02810
New Mexico	.00593
New York	.05653
North Carolina	.03768
North Dakota	.00444
Ohio	.03914
Oklahoma	.01136
Oregon	.01681
Pennsylvania	.04593
Rhode Island	.01071
South Carolina	.02042
South Dakota	.00461
Tennessee	.01855
Texas	.03791
Utah	.00631
Vermont	.00510
Virginia	.02581

State Allotment Ratios—Continued

Washington	.02197
West Virginia	.01303
Wisconsin	.02903
Wyoming	.00336
Am. Samoa	.00160
Virgin Islands	.00752
Guam	.00760
Puerto Rico	.01670
Trust Territory	.00346

Interstate Allotment Ratios

ORSANCO	0.26231
DRBC	.17357
ISC	.21345
INCOPOT	.11141
NEIWPCC	.17553
SRBC	.06373

(b) The amount of funds set aside for interstate commissions in a given fiscal year will be specified in EPA's annual Operating Guidance. The minimum level of funding for these commissions will be the level of fiscal year 1973 ($1,022,400) unless the annual § 106 appropriation is less than the fiscal year 1973 level ($40 million), in which case the total amount of funding for the commissions will be reduced by the proportional amount that the annual appropriation is reduced below $40 million.

Appendix C.—*FY 1978 and FY 1979 section 208 Funding Allocations.*[1]

Region	$35 M		$58 M	Total
I	$1,375,000	+	$3,049,000	$4,424,000
II	2,977,000	+	5,958,000	8,935,000
III	2,767,000	+	5,408,000	8,175,000
IV	4,630,000	+	9,963,000	14,593,000
V	5,425,000	+	10,631,000	16,056,000
VI	3,982,000	+	7,000,000	10,982,000
VII	3,674,000	+	1,000,000	4,674,000
VIII	2,167,000	+	4,308,000	6,475,000
IX	5,090,000	+	5,000,000	10,090,000
X	2,913,000	+	5,683,000	8,596,000
Total	35,000,000	+	58,000,000	93,000,000

[1]An additional $6 million is being allocated to selected urban runoff projects under the National Urban Runoff Program (NURP).

Dated: July 9, 1979.

Swep T. Davis,

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 79-21933 Filed 7-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1274-6]

Proposed Statement of Policy on the Labeling Requirements for Exported Pesticides, Devices, and Pesticide Active Ingredients and the Procedures for Exporting Unregistered Pesticides

AGENCY: Office of Enforcement, Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of proposed procedures for implementation of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, with respect to the export of pesticides, devices, and pesticide active ingredients.

SUMMARY: The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA or the Act) was amended by the Federal Pesticide Act of 1978 on September 30, 1978. Section 17(a) of the Act was modified so that pesticides, devices and active ingredients used in producing pesticides which are destined for export must now bear certain minimal labeling and the producers of such products are now subject to both FIFRA sections 7 (establishment registration) and 8 (books and records). In addition, unless a pesticide is registered under section 3 or is being sold under section 6(a)(1), it cannot be exported without being in violation of the Act unless, prior to export, the foreign purchaser has signed a statement acknowledging that the purchaser understands that the pesticide is unregistered and therefore cannot be sold in the United States. A copy of that statement must be transmitted to an appropriate official of the government of the importing country.

This notice informs the public of the scope of the new labeling requirements and the procedures that an exporter of unregistered pesticides must follow in order that the exported pesticides not be deemed in violation of FIFRA.

DATES AND ADDRESSES: The Administrative Procedures Act [5 U.S.C. 553(b)] provides that the solicitation of comments is not required of federal agencies for "interpretive rules, general statements of policy, or rules of agency organization, procedure or practice." EPA has determined that this notice falls within this exemption. Nevertheless, interested parties may submit written comments regarding the proposed policy set forth. If possible, three copies of all comments should be submitted by September 17, 1979, to the Pesticides and Toxic Substances Enforcement Division, Policy and Guidance Branch, Office of Enforcement, EPA, 401 M Street, S.W., Washington, D.C. 20460.

All comments filed pursuant to this notice will be available for public inspection in the Pesticides and Toxic Substances Enforcement Division, Rm. 3632 WSM from 8:30 a.m. to 4:00 p.m., Monday through Friday. EPA will respond to significant relevant comments prior to or at such time as this policy is published in final form in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Jack Neylan, Office of Enforcement, Pesticides and Toxic Substances Enforcement Division (EN-342), EPA,

401 M Street, S.W., Washington, D.C. 20460, (202) 755–0630.

SUPPLEMENTARY INFORMATION: The Federal Pesticide Act of 1978, Pub. L. 95–396, 92 Stat. 819, September 30, 1978, substantially amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Section 17(a) of FIFRA (7 U.S.C. 136o) previously stated that a pesticide or device that is to be exported would not be considered in violation of the Act if it were prepared or packed according to the directions of the foreign purchaser.

The new amendments add to the requirements imposed on both the products to be exported and the producers of such products as follows.

Labeling Requirements

Section 17(a) of FIFRA has been amended to provide as follows:

(a) Pesticides and Devices Intended for Export.—Notwithstanding any other provision of this Act, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be deemed in violation of this Act—

(1) when prepared or packaged according to the specifications or directions of the foreign purchaser, except that producers of such pesticides and devices and active ingredients used in producing pesticides shall be subject to sections 2(p), 2(q)(1) (A), (C), (D), (E), (G), and (H), 2(q)(2) (A), (B), (C) (i) and (iii), and (D), 7, and 8 of this Act;

Exported pesticides, devices, and active ingredients used in producing pesticides must now bear labels or labeling which in brief: do not make false representations; are not in imitation of other products; bear EPA establishment numbers; have ingredient statements; have the name and address of the producer or registrant; have statements of net weight or measure; if highly toxic, bear skull and crossbones; include warning and caution statements; and in the case of unregistered pesticides, bear the statement "Not Registered for Use in the United States of America." Also all required statements must be conspicuous and readable.

By enacting these labeling requirements for all exported pesticides, devices, and active ingredients used in producing pesticides, Congress was expressing its concern that persons in other countries, particularly the less developed countries, as well as persons in this country, could be needlessly exposed to health and safety risks when they handled pesticidees which bore little or no labeling. This lack of labeling came about because, prior to the 1978 amendments to FIFRA, pesticides produced for export were essentially exempt from the requirements of FIFRA. The Federal Pesticide Act of 1978 imposes the same labeling requirements on exporters, with certain exceptions, as must be met by domestic sellers. Every exported pesticide, device, and active ingredient used in producing a pesticide must bear a label or be accompanied by labeling containing the information specified by FIFRA section 17(a)(1).

The Agency believes the purposes of the Act—to assure that a label or labeling comparable to that required for domestic pesticides accompanies exported pesticides—would be satisfied if the label or labeling meets the applicable criteria of 40 CFR 162.10. Further, the labeling must bear certain information in the English language and in the language of the importing country. As stated previously, FIFRA section 2(q)(1)(E) specifies that required statements must be presented "* * * in such terms as to render it likely to be read and understood by the ordinary individual * * *." This requirement can only be satisfied by bilingual labeling. The information required to appear bilingually on exported product labeling is that which would satisfy sections 2(q)(1) (E), (G), and (H) and 2(q)(2)(A) and (D). The Agency is, however, concerned that labeling required by FIFRA not conflict with labeling requirements of the importing country. Such a situation might arise, for example, where pesticides are being exported to a foreign country with strict labeling and registration laws such as this country has. In order to avoid such potential conflicts, yet still meet the statutory requirements of FIFRA, exporters may avail themselves of the use of supplemental labeling. Pesticides, devices, and active ingredients used in producing pesticides may, therefore, bear a label with the appropriate information required by FIFRA section 17(a)(1) or be accompanied by supplemental labeling. Supplemental labeling may be attached to or accompany the product container or shipping container. An example of how an exporter might comply with FIFRA section 17(a)(1) follows.

An exporter intends to ship an unregistered pesticide to Germany with a label that meets that country's labeling requirements. The German language label bears most of the items necessary to meet the requirements of FIFRA section 17(a)(1). The label lacks a statement of use classification and the statement, "Not Registered for Use in the United States of America." In order to meet fully the requirements of FIFRA section 17(a)(1), including the bilingual requirement, the pesticide must also bear, in English, supplemental labeling which is either attached to or will accompany the pesticide. This labeling must have an ingredient statement, precautionary statements, a statement of use classification, if the pesticide has been classified, and the "Not registered * * *" statement. Because, in this case, the "Not Registered * * *" statement is not found on the German label, it must appear in both German and English on the supplemental labeling.

To reiterate, every exported pesticide, device, and active ingredient used in producing a pesticide must bear a label or labeling, in English *or* in the language of the importing country, which meets the requirements of FIFRA section 17(a)(1). In addition, certain information which will satisfy FIFRA sections 2(q)(1) (E), (G) and (H) and 2(q)(2) (A) and (D) must also appear on the label or labeling so as to provide bilingual information to anyone who handles or comes in contact with these products.

Foreign Purchaser Acknowledgement Statement

Section 17 of FIFRA has been further amended to provide as follows:

(a) Pesticides and Devices Intended for Export.—Notwithstanding any other provision of this Act, no pesticide or device or active ingredient used in producing a pesticide intended solely for export to any foreign country shall be deemed in violation of this Act—

(2) In the case of any pesticide other than a pesticide registered under section 3 or sold under section 6(a)(1) of this Act, if, prior to export, the foreign purchaser has signed a statement acknowledging that the purchaser understands that such pesticide is not registered for use in the United States and cannot be sold in the United States under the Act. A copy of that statement shall be transmitted to an appropriate official of the government of the importing country.

This notice also delineates what pesticide products are affected by this provision and procedures EPA believes would satisfy the purposes of section 17(a)(2).

Products Subject to the Requirement for an Acknowledgement Statement

In developing procedures and deciding which pesticides will be subject to the requirements of section 17(a)(2) and 2(q)(1)(H), the Agency has consulted with manufacturers of pesticides for export and environmental organizations. There are many pesticides produced in the United States intended solely for export which contain active ingredients registered as components of pesticides for use within the United States. However, the export formulations in many cases contain slightly different percentages of active ingredients and are labeled differently.

Several factors dictate these minor modifications in formulation and labeling, such as different systems of measurement, pests to be controlled which are different from those for which the same or a similar pesticide product is used in the United States, and requirements for labeling in a language other than English.

The Agency believes that Congress did not intend the export notification provisions of Pub. L. 95–396 applicable to "unregistered" pesticides to include products which are minor variations on formulations registered in the United States and which contain only active ingredients which are registered in the United States. Rather, it is the Agency's view that the export amendments were meant to apply in cases in which either an adverse decision concerning the use of the pesticide in the United States has been made or no decision has been made concerning the use of the pesticide. The requirement for obtaining an acknowledgement statement from a foreign purchaser will apply to pesticide products in which:

The pesticide active ingredient has been judged by the United States to pose "unreasonable adverse effects" to man or the environment; that is, it has been cancelled or registration under section 3 has been denied; or

Either no assessment or no conclusive assessment of the hazard resulting from use of the pesticide has been made by EPA (while the pesticide may have been used under limited experimental or emergency conditions, the pesticide has never been registered under section 3) because registration for the pesticide active ingredient has not been sought or has not yet been granted; or the pesticide is being exported for a use which is substantially different from any currently registered use of that pesticide, e.g., a pesticide which is registered in this country for use as a termiticide is exported bearing directions for use on food crops.

Consequently, the Agency will interpret section 17(a)(2) to apply to:

(a) All pesticide products which contain an active ingredient that is not found in a federally registered product;

(b) All pesticide products bearing labeling for a specific use which is currently subject to denial or cancellation of registration; and

(c) All pesticide products which are not similar in composition and use pattern to a federally registered product.

To be considered similar in composition and use pattern a pesticide product must contain only the same ingredient or combination of active ingredients and have the same category of toxicity as a federally registered product. Also, the use pattern must be similar to the use pattern of the federally registered pesticide to which it is being compared. Registrations involving changes in use patterns such as changes from non-food to food use, outdoor to indoor use, terrestrial to aquatic use, or non-domestic to domestic use, are not considered to qualify as similar use patterns.

Pesticide products which are subject to the requirements of section 17(a)(2) must also bear the label statement, "Not Registered for Use in the United States of America" stipulated by section 2(q)(1)(H) of this Act.

Questions concerning the applicability of the purchaser acknowledgement statement and labeling requirements to particular products may be directed to EPA's Pesticides & Toxic Substances Enforcement Division or any EPA Regional Pesticides Branch.

Procedures

Section 17(a)(2) requires that before a pesticide which is not registered for use in the United States can be exported, the foreign purchaser of the pesticide must acknowledge in writing that he understands the registration status of the pesticide and that the pesticide cannot be sold in the United States. An exporter of unregistered pesticides must have knowledge that the foreign purchaser of the pesticide has signed such an acknowledgement statement before exportation can take place.

EPA is concerned that foreign purchasers of unregistered pesticides understand the seriousness of this obligation to provide U.S. exporters with signed acknowledgement statements. The Agency is also concerned that the acknowledgement statements reach foreign governments in a timely manner. The problem of providing timely notification is exacerbated by the fact that these statements must go from a foreign purchaser to a foreign government via the U.S. exporter, EPA, and the State Department.

The Agency feels that the only way in which it can ensure that foreign purchasers comply with these new FIFRA export requirements is by obligating exporters to have in hand the purchaser acknowledgement statement before exportation can take place. The Agency recognizes that by imposing such a requirement on exporters it will be causing some disruption in the export of pesticides. However, any such delays will only be visited upon exporters of unregistered pesticides, and then only for certain shipments. The Agency has no information at its disposal which would lead it to conclude that inordinate delays to export shipments would result from imposition of this requirement. Accordingly, the Agency is inviting specific comment upon this requirement. EPA is also soliciting alternative suggestions as to how the Agency can both insure compliance by foreign purchasers with the export requirements of FIFRA and provide timely notification of shipments of unregistered pesticides to foreign governments.

Upon receipt of an acknowlegement statement from a foreign purchaser, the exporter must certify, in writing, that the shipment was not made prior to the foreign purchaser signing the acknowledgement statement or prior to such receipt. The acknowledgement statement, accompanied by the aforementioned certification, must be transmitted to the Environmental Protection Agency within seven working days of receipt by the exporter.

The Agency, with the cooperation of the Department of State, will transmit the acknowledgement statements to appropriate foreign officials. Statements will be transmitted upon receipt by EPA.

The Agency believes that the purpose of the purchaser acknowledgement statement is to advise foreign governments that pesticides which have been judged by the United States to be hazardous to human health or the environment, or pesticides for which no hazard assessment has been made, are being exported by U.S. producers to their country. EPA does not consider that the acknowledgement statement is intended to serve as a preshipment notification to foreign governments in order that they may intercept shipments of such pesticides. Rather, acknowledgement statements will provide notice to a foreign government that a certain pesticide, which cannot be sold in the United States because its registration has not been sought or has been denied or cancelled, has entered their country. Foreign governments may then use such information as they desire, perhaps, for example, in evaluating the risk of continued use of the pesticide in that country versus the benefits that pesticide provides. The Subcommittee on Departmental Investigations, Oversight, and Research, of the House Committee on Agriculture, in accepting this amendment to section 17, agreed that it should not be required that the purchaser acknowledgement statement be transmitted to the government of the importing country prior to export. However, because of the Agency's concern that acknowledgement statements reach foreign governments in a timely manner,

the information contained in the acknowledgement statement will be forwarded to foreign governments promptly upon receipt by EPA.

As an information mechanism, the purchaser acknowledgement statement servies the purpose of alerting the foreign government that a particular pesticide is entering its country. EPA believes that the first notice fulfills this purpose; repetitive notices would be of only marginal value, and in cases of high volume of exports to a foreign country, might result in a flood of paper. After considering the administrative burdens placed on exporters, EPA, and foreign governments and the value of repetitive notices, the Agency has concluded that each exporter should complete and have signed a purchaser acknowledgement statement, on an annual basis, for the first shipment of a particular product for a particular purchaser for each importing country. A shipment of the same product to a different purchaser or to the same purchaser for disposition to a different importing country would also trigger the requirement for obtaining a signed acknowledgement statement from the foreign purchaser. A second shipment involving the same product, purchaser, and importing country would not trigger this requirement. Any change in the variables—different purchaser, different product, different importing country—will result in the need for obtaining a new purchaser acknowledgement statement.

Concern was raised in Congress that EPA did not receive sufficient information on the kinds and amounts of pesticides exported to particular foreign countries.[1] While the Agency does receive aggregate data on each exported pesticide from the annual Pesticide Report required by section 7 of FIFRA, these data are not specific to countries of destination. One method of acquiring such export information would be through a requirement for a purchaser acknowledgement statement for each exportation of an unregistered pesticide. As stated above, the Agency feels that the value of obtaining information in this manner is outweighed by the burdens placed upon exporters, EPA, and the State Department, in terms of the resources necessary to prepare and process the resulting paperwork. Another possible means of gathering more specific information on exported pesticides would be to require exporters to acquire first shipment acknowledgement statements, as detailed in this document, and additionally, to require semiannual or annual reports from exporters which would list the kinds and amounts of pesticides they shipped to each country. However, the Agency does not feel that it has been given the statutory authority in section 17 to impose this additional requirement on exporters, although it believes that there may be merit to having more specific information on exported pesticides than EPA currently receives. In order to acquire such information EPA intends to propose amendments to both the regulations which detail the establishment registration procedures, including the annual pesticide reporting process (section 7) and the regulations which list the books and records which pesticide producers must keep (section 8).

In examining exporter records, as required under FIFRA section 8(a), EPA will consider the obligations of the exporter, with respect to FIFRA section 17(a)(2), to have been met if the exporter can produce evidence that he did not ship prior to receiving assurances from the foreign purchaser that an acknowledgement statement had been signed and transmitted or until he actually received the signed acknowledgement statement.

In summary, the procedures that an exporter of unregistered pesticides should follow in obtaining and transmitting foreign purchaser acknowledgement statements are:

(a) The exporter must provide the foreign puchaser with instructions about the required information on an acknowledgement statement and inform the foreign purchaser that shipment of the pesticide cannot be undertaken unless the exporter has received from the foreign purchaser a properly completed, signed, and dated acknowledgement statement;

(b) The exporter must secure, prior to shipment, an acknowledgement statement which contains the information outlined in the "Required Information" section of this notice. Such statement must be secured for the first purchase each year of a particular pesticide product by a foreign purchaser destined for a particular country;

(c) The exporter must sign a certification that the shipment was not exported prior to receipt of the signed acknowledgement statement by the exporter;

(d) The exporter must forward a copy of the acknowledgement statement within seven (7) working days of receipt from the foreign purchaser, accompanied by the certification, to the following address:

Environmental Protection Agency, Pesticides and Toxic Substances Enforcement Division (EN-342), 401 M Street, SW, Washington, D.C. 20460. Attention: Export Acknowledgement Statement.

Required Information

As previously stated, a foreign purchaser of a pesticide which is not registered for use in the United States must sign a statement acknowledging his understanding that the product is unregistered and cannot be sold in this country. The Agency does not intend to prescribe a format for this acknowledgement statement. However, the statement must include the following information:

(a) Name and address of the exporter;

(b) Name and address of the foreign purchaser;

(c) Name of the product and the active ingredient and an indication that the purchaser understands that the product is not registered for use in the United States;

(d) Destination of the export shipment, if different than purchaser's address;

(e) Signature of the foreign purchaser; and

(f) Date of the foreign purchaser's signature.

General

Producers of pesticides, devices, and active ingredients used in producing pesticides, which are intended for export, are subject to the establishment registration procedures, including the reporting requirements, as well as the record keeping requirements of FIFRA. EPA intends to propose amendments to the regulations which are promulgated under the authority of those parts of the Act (sections 7 and 8) to bring them into conformity with the newly amended FIFRA's export provisions. These regulations are found at 40 CFR 167 and 169, respectively.

Pesticides, devices, and pesticide active ingredients for export are not considered as being in violation of FIFRA when produced according to the directions of the foreign purchaser, when properly labeled, and, in the case of unregistered pesticides, when the foreign purchaser has signed a statement in which he acknowledges that he understands the registration status of the pesticide. Exported pesticides, devices, and active ingredients used in producing pesticides which do not bear labels or labeling in compliance with FIFRA section 17(a)(1) will be considered as misbranded. Exporters of such products will be subject to civil or criminal liabilities for violation of FIFRA sections 12(a)(1) (D) or (E)—misbranding. Exporters of unregistered pesticides will be subject to civil or criminal liabilities for violation

[1] H. Rep. No. 95-1686, 95th Cong. 2d Sess. (1978).

of FIFRA section 12(a)(1)(A)—nonregistration—if they fail to secure, prior to export, a properly completed, signed, and dated acknowledgement statement from the foreign purchaser of the pesticide.

Dated: July 11, 1979.

Marvin B. Durning,

Assistant Administrator for Enforcement.

[FR Doc. 79-22054 Filed 7-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1275-5]

Region II; Groundwater System of the New Jersey Coastal Plains Aquifer

On March 21, 1979, a notice was published stating that a petition has been submitted by the Environmental Defense Fund, Inc. and the Sierra Club-New Jersey Chapter, pursuant to Section 1424(e) of the Safe Drinking Water Act, Pub. L. 93-523, requesting the Administrator of the Environmental Protection Agency to make a determination that the aquifer underlying the Counties of Monmouth, Burlington, Ocean, Camden, Gloucester, Atlantic, Salem, Cumberland and Cape May and portions of Mercer and Middlesex Counties, New Jersey is the sole or principal drinking water source for the coastal plain area which, if contaminated, would create a significant hazard to public health.

The notice indicated that comments, data and references in response to the petition should be submitted by May 21, 1979. Due to the complexity of issues which surround the designation of the Coastal Plain Area as a sole source aquifer, EPA was requested to extend the comment period. In order to permit sufficient time for all interested individuals to provide their input, EPA will extend the comment period on this petition request from May 21, 1979 to August 20, 1979. Comments, data and references in response to the Coastal Plain Petition should be submitted in writing to Eckardt C. Beck, Regional Administrator, Region II, Environmental Protection Agency, 26 Federal Plaza, Room 1009, New York, N.Y. 10007, Attention: Coastal Plain Aquifer. Information concerning the Coastal Plain Aquifer System will be available for inspection at the above address.

Dated: July 13, 1979.

Eckardt C. Beck,

Regional Administrator.

[FR Doc. 79-22221 Filed 7-17-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Part 90 Availability

June 20, 1979.

Volume V of the Commission's Rules and Regulations [which includes Part 90 (43 FR 54788; Nov. 22, 1978)] is being reprinted by the Government Printing Office and is not yet available for distribution. The Commission's supply of the **Federal Register** copy of Part 90, also, is exhausted. Until the new Volume V becomes available, applicants for radio station licenses in the Public Safety, Industrial and Land Transportation Radio Services are not required to have a current copy of the Rules in their possession. If the applicant has a copy of the superseded Rules, Part 89, 91, or 93, he may use it since there were few substantive changes made when the rules were consolidated. Information on detail changes in Part 90 may be obtained by calling Arthur King at (202) 632-6497.

A further public notice will be issued when Volume V again becomes available.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-22383 Filed 7-17-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

Notice is hereby given that the following collective bargaining agreements have been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814) and our *Interim Policy Statement—Collective Bargaining Agreements,* served June 12, 1978 (46 CFR 530.9):

Agreement No LM-13, as amended and supplemented, is the 1978-1981 collective bargaining agreement between the National Marine Engineers' Beneficial Association, AFL-CIO and cerain members of the Tanker Service Committee (TSC);

Agreement No. LM-15, as amended and supplemented, is the 1978-1981 collective bargaining agreement between the American Radio Association, AFL-CIO and certain TSC members;

Agreement No. LM-16, as amended and supplemented, is the 1978-1981 collective bargaining agreement between the International Organization of Masters, Mates & Pilots and certain TSC members;

Agreement No. LM-16, as amended and supplemented, is the 1978-1981 collective bargaining agreement between the National Maritime Union of America, AFL-CIO and certain TSC members: and

Agreement No. LM-21, as amended and supplemented, is the 1978-1981 collective bargaining agreement between the Radio Officers' Union of the United Telegraph Workers, AFL-CIO and certain TSC members.

Inasmuch as the membership of TSC does not appear to include any persons subject to the jurisdiction of the Federal Maritime Commission as defined in section 1 of the Shipping Act, 1916, it would appear that these collective bargaining agreements may not be subject to the filing and approval requiements of section 15 of the Shipping Act, 1916.

Interested parties may inspect a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before July 30, 1979. Comments on the agreements should include facts and arguments concerning: (a) the subjectivity of the TSC members involved to the Shipping Act, 1916; (b) the subjectivity of the agreements to section 15 of the Shipping Act, 1916; and (c) the exemption, approval, modification or disapproval of the agreements. Comments shall also discuss with particularity allegations that the agreements are unjustly discriminatory or unfair as between carriers, shippers, exporters, importers or ports, or between exporters from the United States and their foreign competitors, or operate to the detriment of the commerce of the United States, or are contrary to the public interest, or in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements (Edward Silver, Esq., Proskauer, Rose, Goetz & Mendelsohn,, 300 Park Avenue, New York, New York 10022) and the statement shall indicate that this has been done.

By Order of the Federal Maritime Commission.

Dated: July 12, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-21916 Filed 7-17-79; 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. section 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 August 6, 1979.

A. *Federal Reserve Bank of Richmond*, 701 East Byrd Street, Richmond, Virginia 23261:

1. NCNB Corporation, Charlotte, North Carolina (financing and insurance, activities; South Carolina): to engage, through its subsidiary, TranSouth Financial Corporation, in operating a finance company, including the extension of direct loans for consumer and other purposes, the discounting of retail installment notes or contracts, the purchasing of recreational lot notes, the extension of direct loans to dealers for the financing of inventory (floor planning) and working capital purposes, the purchasing of personal property lease contracts, and acting as agent in the sale of credit life, credit accident and health and physical damage insurance which is directly related to the extensions of credit. These activities will be conducted from an office in the city of Marion, South Carolina, serving the northwest section of Marion County and the northeast section of Florence County.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 9, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22083 Filed 7-17-79; 8:45 am]

BILLING CODE 6210-01-M

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. section 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 August 2, 1979.

A. *Federal Reserve Bank of Atlanta*, 104 Marietta Street, N.W., Atlanta, Georgia 30303:

First Alabama Bancshares, Montgomery, Alabama (insurance activities; Alabama): to act, through its subsidiary FAB Agency, Inc., as agent or broker for the sale of credit life and credit accident and health insurance and to sell physical damage insurance all of which are directly related to extensions of credit by First Alabama Bank of Conecuh County, a proposed subsidiary of First Alabama Bancshares, Inc. These activities would be conducted from an office in Evergreen, Alabama, serving Conecuh County, Alabama.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 6, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22084 Filed 7-17-79; 8:45 am]

BILLING CODE 6210-01-M

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 or interest, or unsound banking practices." Any comments 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 August 3, 1979.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

Citicorp, New York, New York (financing and insurance activities): to engage, through its subsidiary, Citicorp Person-to-Person Financial Center, Inc., in operating a finance company, including the making of consumer installment personal loans, purchasing and servicing for its own account installment sales finance contracts, making loans for the account of others such as one-to-four family unit mortgage loans, making loans to individuals and businesses secured by real and personal property, the proceeds of which may be for purposes other than personal, family or household usage, sale of credit related life and accident and health, or decreasing or level (in the case of single payment loans) term life insurance to cover the outstanding balances of credit transactions (singly or jointly with cosigners in the case of life coverage) in the event of death, or to make contractual monthly payments of the credit transactions in the event of obligor's disability by licensed agents or brokers to the extent permissible under applicable state laws and regulations; the sale of credit related property and casualty insurance protecting personal and real property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc. and to include liability coverage in home and automobile policies where such is the general practice, by licensed agents or brokers to the extent permissible under applicable state insurance laws and regulation. Credit decreasing term life insurance and accident and health insurance may be reinsured by Family Guardian Life Insurance Company. These activities would be conducted from an office in Shreveport, Louisiana, serving Shreveport and Bossier City, Louisiana. This application is for the relocation of an office located in Bossier City.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 9, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22085 Filed 7-17-79: 8:45 am]

BILLING CODE 6210-01-M

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 August 7, 1979.

A. *Federal Reserve Bank of Chicago*, 230 South LaSalle Street, Chicago, Illinois 60690:

St. Joseph Bank and Trust Company, South Bend, Indiana (mortgage banking and servicing activities; Indiana): to engage, through its subsidiary, St. Joseph Agency, Inc., in originating, acquiring, selling and servicing of residential, commercial and industrial mortgage loans. These activities would be conducted from an office in Portage, Indiana, serving Lake and Portage County, Indiana, as well as the cities of Portage, Valparaiso, Chesterton and Lake Station.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 10, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22086 Filed 7-17-79: 8:45 am]

Billing Code 6210-01-M

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. section 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 August 8, 1979.

A. *Federal Reserve Bank of Chicago*, 230 South LaSalle Street, Chicago, Illinois 60690:

1. Spencer Financial Corporation, Spencer, Iowa (leasing activities; Iowa): to engage in leasing personal property or acting as agent, broker or advisor in leasing such property, pursuant to non-operating leases which serve as the functional equivalent of an extension of credit to the lessee of property which was acquired specifically for the leasing

transaction, or was acquired specifically for an earlier leasing transaction, and at the inception of the initial lease, the effect of the transaction will yield returns that will compensate the lessor for not less than the lessor's full investment in the leased property, plus the estimated cost of financing the property over the term of the lease. Such activity will be conducted at an office in Spencer, Iowa, serving the area within a 50-mile radius of the office.

2. National Detroit Corporation, Detroit, Michigan (mortgage banking activities; South Carolina): to engage, through its subsidiary, NBD Mortgage Company, in making, acquiring and servicing, for its own account and for the account of others, mortgage loans and other extensions of credit in connection with the purchase, development and/or improvement of real property. These activities would be conducted from an office in Columbia, South Carolina, serving Richmond, Lexington, Fairfield, Kershaw, Sumter, Newberry, and Calhoun counties, South Carolina.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, July 9, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22087 Filed 7-17-79; 8:45 am]

BILLING CODE 6210-01-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 August 11, 1979.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

1. Citicorp, New York, New York (commercial lending and leasing activities; Virginia, West Virginia): to engage, through its subsidiary, Citicorp Industial Credit, Inc., in making or acquiring, for its own account or for the account of others, commercial loans; and making leases of personal and real property, and acting as agent, broker, or advisor in making and servicing such leases, in accordance with the Board's Regulation Y. These activities would be conducted from an office in Richmond, Virginia, serving Virginia and West Virginia.

2. Manufacturers Hanover Corporation, New York, New York (trust company activities; Florida): to engage, through an indirectly owned subsidiary, Manufacturers Hanover Trust Company of Florida, in activities that may be carried on by a trust company, including activities of a fiduciary, investment advisory, agency or custodial nature. These activities will be conducted from offices in Miami, Florida.

Board of Governors of the Federal Reserve System, July 11, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22088 Filed 7-17-79; 8:45 am]

BILLING CODE 6210-01-M

Cabool Bancshares, Inc.; Formation of Bank Holding Company

Cabool Bancshares, Inc., Chesterfield, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Cabool State Bank, Cabool, Missouri. 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 St. Louis. 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 August 11, 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, July 11, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22089 Filed 7-17-79; 8:45 am]

BILLING CODE 6210-01-M

Dannebrog State Co.; Formation of Bank Holding Company

Dannebrog State Company, Dannebrog, Nebraska, 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 100 per cent of the voting shares (less directors' qualifying shares) of State Bank of Dannebrog, Dannebrog, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 2, 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, July 6, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22090 Filed 7-17-79; 8:45 am]

BILLING CODE 6210-01-M

Equimark Corp.; Proposed Retention of Nottingham Corp., Community Service Life Insurance Co. and Beaver County Insurance Agency, Inc.

Equimark Corporation, Pittsburgh, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. section 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain Nottingham Corporation ("Nottingham"), Community Service Life Insurance Company ("CSLIC") and Beaver County Insurance Agency, Inc. ("BCIA"), all of Pittsburgh, Pennsylvania.

Applicant states that Nottingham is a holding company for the stock of CSLIC and BCIA, which act, respectively, as the underwriters on a reinsurance basis of credit life and credit accident and health insurance directly related to extensions of credit by Applicant's banking subsidiary, and as agent for reinsurance written for the benefit of Applicant and its subsidiaries and for mortgage life insurance written or mortgage loans of the subsidiary bank. These activities would be performed from offices of Applicant's subsidiaries in Pittsburgh, Pennsylvania, and the geographic areas to be served are the Allegheny, Beaver, Berkshire, Washington and Westmoreland Counties in Pennsylvania. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration or resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by 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 the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 6, 1979.

Board of Governors of the Federal Reserve System, July 6, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22091 Filed 7-17-79; 8:45 am]

BILLING CODE 6210-01-M

Feliciana Commerce Corp.; Formation of Bank Holding Company

Feliciana Commerce Corporation, St. Francisville, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Compnay Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Bank of Commerce and Trust Company, St. Francisville, Louisana. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 6, 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, July 6, 1979.

Edward T. Mulrenin,

Assitant Secretary of the Board.

[FR Doc. 79-22092 Filed 7-17-79; 8:45 am]

BILLING CODE 6210-01-M

Financial Services Corp. of the Midwest; Proposed Subsidiary The Money Shops, Inc.

Financial Services Corporation of the Midwest, Rock Island, Illinois, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage, through its subsidiary, The Money Shops, Inc., Morton, Illinois, in the activities of consumer finance and the sale of credit-related life, accident and health insurance. These activities would be performed from offices of Applicant's subsidiary in Morton, Illinois, and the geographic area to be served is Morton, Illinois and the surrounding area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any question 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 the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank, not later than August 8, 1979.

Board of Governors of the Federal Reserve System, July 11, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22093 Filed 7-17-79; 8:45 am]

BILLING CODE 6210-01-M

First National Boston Corp.; Acquisition of Bank

First National Boston Corporation, Boston, Massachusetts, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Pittsfield National Bank, Pittsfield, Massachusetts. 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 Boston. 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 August 6, 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, July 5, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22094 Filed 7-17-79; 8:45 am]

BILLING CODE 6210-01-M

Manufacturers National Corp.; Acquisition of Bank

Manufacturers National Corporation, Detroit, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Manufacturers Bank of Novi, Novi, Michigan, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than August 6, 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, July 6, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22095 Filed 7-17-79; 8:45 am]

BILLIING CODE 6210-01-M

Mitchell National Co.; Formation of Bank Holding Company

Mitchell National Company, Mitchell Nebraska, 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 100 percent of the voting shares (less directors' qualifying shares) of the First National Bank in Mitchell, Mitchell, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 8, 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, July 6, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22096 Filed 7-17-79; 8:45 am]

BILLING CODE 6210-01-M

R&B Management Corp.; Proposed Continuance of Credit Related Insurance Activities

R&B Management Corporation, Washington, Illinois, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the sale of credit life, accident and health insurance. These activities would be performed from the offices of Applicant's subsidiary bank in Washington, Illinois, serving the Washington, Illinois area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by 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 the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 6, 1979.

Board of Governors of the Federal Reserve System, July 6, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22097 Filed 7-17-79; 8:45 am]

BILLING CODE 6210-01-M

Seneca Bancshares, Inc.; Formation of Bank Holding Company

Seneca Bancshares, Inc., Wichita, Kansas, 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 93 per cent of the voting shares of The Seneca State Bank of Witchita, Witchita, Kansas. 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 August 9, 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, July 9, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22098 Filed 7-17-79; 8:45 am]

BILLING CODE 6210-01-M

Wells Fargo and Co.; Proposed Commencement of Credit Life Underwriting (as Reinsurer); Correction

In FR Doc. 79-20023 appearing at page 37689 of the issue for Thursday, June 28, 1979, the final date for receipt of comments should read July 22, 1979.

Board of Governors of the Federal Reserve System, July 6, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-22099 Filed 7-17-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[E-79-1]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the New Jersey Board of Public Utilities involving gas and electric rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the New Jersey Board of Public Utilities involving the application of the Public Service Electric and Gas Company (PSE&G) for increases in its gas and electric rates. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: July 3, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-21921 Filed 7-17-79; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Assistant Secretary for Health

President's Council on Physical Fitness and Sports; Meeting

The President's Council on Physical Fitness and Sports (PCPFS) will hold its quarterly meeting on August 2, 1979. The meeting will be held from 10:00 a.m. to 4:00 p.m., Thursday, August 2, 1979, in the New Executive Office Building, 17th & Pennsylvania Avenue, NW., Washington, DC.

The purpose of the meeting is to report on ongoing projects and to discuss future directions of the PCPFS.

A list of Council members and the Executive Order, dated September 25, 1970, amended October 25, 1976, establishing their responsibilities, may be obtained from:

C. Carson Conrad, Executive Director, President's Council on Physical Fitness and Sports, Washington, DC 20201, Telephone: 202/755-7947.

The meeting will be open to the public.

Dated: July 9, 1979.

V. L. Nicholson,

Acting Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 79-22045 Filed 7-17-79; 8:45 am]

BILLING CODE 4110-85-M

National Institutes of Health

Meeting of National Advisory Council on Aging

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging, on August 24, 1979, in Building 31C, Conference Room 6, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9 a.m. until 9:15 a.m. for introductory remarks. Attendance by the public will be limited to space available.

This special meeting has been scheduled for the purpose of reviewing only those applications that have been received in response to program announcements.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on August 24, 1979 from 9:15 a.m. until adjournment for the review, discussion and evaluation of grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June McCann, Committee Management Office, National Institute on Aging, Building 31, Room 5C-05, National Institutes of Health, Bethesda, Maryland, 20205, (Area Code 301, 496-5345), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, National Institutes of Health.)

Dated: July 9, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-22108 Filed 7-17-79; 8:45 am]

BILLING CODE 4110-08-M

Meeting of National Advisory Environmental Health Sciences Council

Pursuant to Pub. L. 92-463, notice is hereby given of a special meeting of the National Advisory Environmental Health Sciences Council, National Institute of Environmental Health Sciences, August 20, 1979, in Building 31-C, Conference Room 7, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on August 20, 1979, from 9 a.m. to approximately 9:30 a.m. to discuss the purpose of the Environmental Health Curriculum Development Program, guidelines, review material, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S. Code and section 10(d) of P. L. 92-463, the meeting will be closed to the public from 9:30 a.m. to adjournment on August 20, 1979, for the review, discussion and evaluation of individual Environmental Health Curriculum Development applications, in accordance with Conference Report No. 94-1612 for Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484) and Senate Amendment, section 788(d) of the PHS Act. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Wilford L. Nusser, Associate Director for Extramural Program, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 755–4015, can be contacted for information regarding this meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.892, 13.893, and 13.894, National Institutes of Health)

Dated: July 9, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-22109 Filed 7-17-79; 8:45 am]

BILLING CODE 4110-08-M

Meeting of Subcommittee of the Recombinant DNA Advisory Committee

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Subcommittee on Risk Assessment of the Recombinant DNA Advisory Committee at the National Institutes of Health, Building 31A, Room 7A24, 9000 Rockville Pike, Bethesda, Maryland 20205, on August 2, 1979, from 9:00 a.m. to 5:00 p.m.

The entire meeting will be open to the public for discussion of risk-assessment experiments for recombinant DNA research and other matters requiring consideration by the Subcommittee. Attendance by the public will be limited to space available.

Dr. William J. Gartland, Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 4A52, telephone 301/496–6051, will provide materials to be discussed at the meeting, rosters of committee members, and substantive program information.

Dated: July 9, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-22106 Filed 7-10-79; 8:45 am]

BILLING CODE 4110-08-M

Meetings for the Review of Contract Proposals and Grant Applications

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, unless otherwise stated.

Name of committee: Clinical Cancer Program Project and Cancer Center Support Review Committee (Clinical Cancer Program Project Review Subcommittee).

Dates and place: August 6–7, 1979; Building 31C, Conference Room 6, National Institutes of Health.

Times: Open—August 6, 8:30 a.m.–10:30 a.m.; Closed—August 6, 10:30 a.m.–5:30 p.m., August 7, 8:30 a.m.–adjournment.

Closure reason: To review research grant applications.

Executive secretary: Dr. Louise G. Thomson, Westwood Building, Room 809, National Institutes of Health, 301/496–7924.

(Catalog of Federal Domestic Assistance Number 13.397 National Institutes of Health)

Name of committee: Clinical Trials Committee.

Dates and places: August 7–8, 1979; Building 31C, Conference Room 9, National Institutes of Health.

Times: Open—August 7, 8:30 a.m.–9:00 a.m.; Closed—August 7, 9:00 a.m.–5:00 p.m., August 8, 8:30 a.m.–adjournment.

Closure reason: To review research contract proposals.

Executive secretary: Dr. Gerald U. Liddel, Westwood Building, Room 826, National Institutes of Health, 301/596–7575.

(Catalog of Federal Domestic Assistance Number 13.395 National Institutes of Health)

Dated: July 9, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-22107 Filed 7-17-79; 8:45 am]

BILLING CODE 4110-08-M

Biometry and Epidemiology Contract Review Committee; Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, July 24, 1979, which was published in the **Federal Register** on June 14, 1979 (44 FR 34200). This meeting is cancelled because no contract proposals are scheduled for review at this time. For further information contact Wilna A. Woods, Ph.D. on 301/496–7153, Westwood Building, Room 821, Bethesda, Maryland 20205.

Dated: July 9, 1979.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 79-22105 Filed 7-17-79; 8:45 am]

BILLING CODE 4110-08-M

Renewal of NIH Public Advisory Committees

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the National Institutes of Health announces the renewal by the Secretary, HEW, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the following committees:

Advisory Committee to the Director, NIH
Allergy and Immunology Study Section
Applied Physiology and Orthopedics Study Section
Bacteriology and Mycology Study Section
Biochemistry Study Section
Biomedical Library Review Committee
Biophysics and Biophysical Chemistry A Study Section
Biophysics and Biophysical Chemistry B Study Section
Board of Regents of the National Library of Medicine
Board of Scientific Counselors, National Institute of Arthritis, Metabolism, and Digestive Diseases
Board of Scientific Counselors, National Institute of Child Health and Human Development
Board of Scientific Counselors, National Institute of Environmental Health Sciences
Cell Biology Study Section
Endocrinology Study Section
General Medicine A Study Section
Human Development Study Section
Maternal and Child Health Research Committee
Mental Retardation Research Committee
National Advisory Child Health and Human Development Council
National Advisory Environmental Health Sciences Council

National Arthritis, Metabolism, and Digestive Diseases Advisory Council
Oral Biology and Medicine Study Section
Population Research Committee

Authority for the above committees will expire on May 31, 1981, unless the Secretary formally determines that continuance is in the public interest.

Dated: July 3, 1979.

Donald S. Fredrickson,

Director, NIH

[FR Doc. 79-22104 Filed 7-17-79; 8:45 am]

BILLING CODE 4110-08-M

Public Health Service

Black Lung Clinics; Delegations of Authority

Notice is hereby given of the following delegations of authority under Section 427(a) of the Federal Mine Safety and Health Act of 1977 (30 USC 937(a)), formerly titled the Federal Coal Mine Health and Safety Act of 1969, which were made in furtherance of the delegation (35 FR 11150) by the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health.

1. Delegation by the Acting Assistant Secretary for Health to the Administrator, Health Services Administration, with authority to redelegate, of all the authorities vested in the Secretary of Health, Education, and Welfare under Section 427(a), excluding the authority to issue regulations.

2. Delegation by the Administrator, Health Services Administration, to the Regional Health Adminsitrators, with authority to redelegate, of authority under Section 427(a) to make grants to public and private agencies and organizations and individuals for the construction, purchase, and operation of fixed-site and mobile clinical facilities for the analysis, examination, and treatment of repiratory and pulmonary impairments in active and inactive coal miners wihin their respective regions, other than for grants that are national or multi-regional in scope, and the authority to coordinate the making of grants with the Appalachian Regional Commission.

3. Delegation by the Administrator, Health Services Administration, to the Director, Bureau of Community Health Services, Health Services Adminsitration, with authority to redelegate, of all the authorities vested in the Secretary of Health, Education, and Welfare under Section 427(a), excluding the authority to issue regulations and the authorities specifically delegated to the Regional Health Administrators.

The June 13, 1974 delegation (39 FR 23081) by the Acting Assistant Secretary for Health to the Regional Health Administrators of the authority to award and administer grants under Section 427(a) of the Federal Coal Mine Health and Safety Act of 1969, as amended by Public Law 92-303, has been superseded. The June 23, 1978 delegation (43 FR 29034-29035) by the Assistant Secretary for Health to the Director, Center for Disease Control, has also been superseded insofar as it pertains to authorities under Section 427(a) of the Federal Coal Mine Health and Safety Act of 1969, as amended by Public Law 92-303.

The above delegations were effective on June 28, 1979

Dated: June 28, 1979

Charles Miller,

Acting Assistant Secretary for Health

[FR Doc. 79-22064 Filed 7-17-79; 8:45 am]

BILLING CODE 4110-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Yuma District, Ariz.; Public Input—Off-Road Vehicle Designations

The Yuma District of the Bureau of Land Management wishes to involve interested members of the public in formulation of Off-Road Vehicle (ORV) designations for the District.

The Yuma District encompasses Public and Reclamation Withdrawn Lands in the general vicinity of the Colorado River from Lake Mead National Recreation Area south to the United States-Mexico International Border. Designations are being pursued on portions of these lands south of Interstate Highway 40.

A series of public open houses will be held to present tentative ORV designations and get intensive public input into the designation process. BLM staff specialists will be on hand to discuss the tentative designations and receive public comments. These comments will be analyzed and used in the formulation of final ORV designations.

These meetings will be held as follows:

August 16, 1979—Palo Verde Community College, 811 Chancellor Way, Blythe, California, 1 p.m.–8 p.m. PDST.

August 21, 1979—Yuma Civic & Community Center, Yuma, Arizona, 1 p.m.–8 p.m. MST.

August 22, 1979—Rodeway Inn, 245 Crystal Avenue, Lake Havasu City, AZ, 1 p.m.–8 p.m. MST.

August 23, 1979—George Hall, United Methodist Church, 1300 Ocotillo Avenue, Parker, AZ, 1 p.m.–8 p.m. MST.

Tentative ORV designation maps will be available August 13, 1979 for those unable to attend these open houses.

Requests for maps and comments may be directed by mail or in person to:

Bureau of Land Management, Havasu Resource Area, P.O. Box 685, 2049 Swanson Avenue, Lake Havasu City, AZ 86403, (602) 855-8017.

Bureau of Land Management, P.O. Box 5680, 2450 Fourth Avenue, Yuma, Arizona 85364, (602) 726-6300.

Comments will be accepted until September 21, 1979.

Dated: July 9, 1979.

H. M. Bruce,

District Manager.

[FR Doc. 79-22065 Filed 7-17-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 37659]

New Mexico; Application

July 10, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 31 N., R. 9 W.,
Sec. 32, lots 1, 4 and 5. This pipeline will convey natural gas across 0.033 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Fred E. Padilla,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-22162 Filed 7-17-79; 8:45 am]

BILLING CODE 4310-84-M

[OR 11158]

Oregon; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

July 9, 1979.

The Department of Agriculture, on behalf of the U.S. Forest Service, on August 6, 1973, filed application Serial No. OR 11158 for a withdrawal in relation to the following described lands:

Willamette Meridian

Umatilla National Forest

North Fork John Day Bridge Campground Addition

T. 7 S., R. 35½ E.,
Sec. 34, W½NE¼.

North Fork John Day Streamside-Elkhorn Drive Roadside Zones (Combined Area)

Umatilla National Forest

A strip of land 500 feet wide north of the centerline of Elkhorn Drive and 330 feet south of the centerline of the North Fork John Day River through the following subdivisions.

T. 7 S., R. 35½ E.,
Sec. 34, NE¼NE¼.

Whitman National Forest

T. 7 S., R. 35½ E.,
Sec. 35, S½NE¼, SW¼NW¼NW¼, S½NW¼, N½NE¼SW¼, and N½N½SE¼;
Sec. 36, S½N½, NE¼SW¼, N½NW¼SW¼, and N½SE¼.
T. 7 S., R. 36 E.,
Sec. 31, lots 1, 2, and 3, NE¼, E½NW¼, N½NE¼SW¼, and N½NW¼SE¼;
Sec. 32, N½, NE¼SW¼, N½NW¼SW¼, and N½SE¼;
Sec. 33, S½N½ and NW¼SW¼.

North Fork John Day Streamside Zone

A strip of land 330 feet wide on both sides of the centerline of the North Fork John Day river through the following subdivisions:

Umatilla National Forest

T. 7 S., R. 35½ E.,
Sec. 34, NE¼NW¼.

Whitman National Forest

T. 7 S., R. 36 E.,
Sec. 27, SE¼SE¼SW¼ and S½S½SE¼;
Sec. 34, N½N½NE¼, NE¼NW¼, S½NW¼NW¼, and N½S½NW¼,
Sec. 35, SW¼SW¼NE¼, SW¼SE¼, SW¼NE¼NW¼, NW¼NW¼, NE¼SW¼NW¼, SE¼NW¼, and NW¼SE¼.
T. 8 S., R. 36 E.,
Sec. 2, lot 2, SW¼NE¼, and SE¼;
Sec. 11, N½NE¼ and lot 2;
Sec. 12, lot 1, W½NW¼NW¼, and SE¼NW¼NW¼.

Elkhorn Drive Roadside Zone

A strip of land 500 feet wide on both sides of the centerline of Elkhorn drive through the following subdivisions:

Umatilla National Forest

T. 7 S., R. 35½ E.,
Sec. 34, E½SE¼.
T. 8 S., R. 35½ E.,
Sec. 3, lot 1, SE¼NE¼, NE¼SE¼, and S½SE¼;
Sec. 10, N½NE¼, N½NE¼SW¼NE¼, W½SW¼NE¼, N½NW¼SE¼NE¼, N½NE¼SE¼NE¼, S½NW¼NE¼SE¼, S½NE¼NW¼SE¼, W½NW¼SE¼, SE¼NW¼SE¼, and SW¼NE¼SE¼;
Sec. 15, NW¼NW¼NE¼, SE¼, E½E½NW¼, and E½E½SW¼;
Sec. 22, lots 1, 3, and 4, MS 808, MS 359;
Sec. 28, SE¼SE¼;
Sec. 33, E½E½.

Whitman National Forest

T. 7 S., R. 35½ E.,
Sec. 35, W½SW¼.
T. 8 S., R. 35½ E.,
Sec. 2, lot 4, SW¼NW¼, and NW¼SW¼;
Sec. 14, SW¼SW¼;
Sec. 23, lots 2, 3, 4, 5, and 6, MS 359, W½NE¼SW¼, excepting patented MS 70;
Sec. 27, lot 1, SE¼ of lot 4, W½NE¼, SE¼NE¼NW¼, SE¼NW¼, and SW¼;
Sec. 34, W½W½.
T. 9 S., R. 35½ E.,
Sec. 3, NE¼ of lot 4;
Sec. 4, lots 1, 2, 8, and 9, and S½SE¼;
Sec. 9, NE¼NE¼NE¼;
Sec. 10, NW¼ and NW¼SE¼;
Sec. 11, SW¼SW¼NW¼, SW¼NE¼SW¼, and S½S½SE¼;
Sec. 13, NE¼, NE¼NW¼, NE¼NW¼NW¼, S½NW¼NW¼, and S½NW¼;
Sec. 14, N½NE¼ and N½NE¼NW¼.
T. 7 S., R. 36 E.,
Sec. 11, E½SW¼ and SE¼;
Sec. 12, NE¼, E½NW¼, E½SW¼NW¼, SW¼, and NE¼SE¼;
Sec. 14, W½SW¼NE¼, E½NW¼, SE¼NW¼NW¼, E½SW¼NW¼, NE¼SW¼, S½SW¼, W½NW¼SE¼, NW¼SW¼SE¼, and W½NW¼NE¼;
Sec. 15, SE¼SE¼SE¼;
Sec. 21, SE¼SE¼;
Sec. 22, NE¼, S½SE¼NW¼, SW¼, NW¼NW¼SE¼, SW¼SW¼SE¼, and NE¼SE¼NW¼;
Sec. 23, NW¼NW¼;
Sec. 27, W½NW¼NE¼, NW¼, N½SW¼, SW¼SW¼, N½SE¼SW¼, and SW¼SE¼SW¼;
Sec. 28, N½NE¼, S½N½, and S½;
Sec. 33, N½NE¼ and S½NE¼NW¼;
Sec. 34, N½NW¼NW¼.
T. 9 S., R. 36 E.,
Sec. 18, lots 2 and 3, E½SW¼, and SW¼SE¼;
Sec. 19, NE¼, NE¼NE¼NW¼, and NE¼NE¼SE¼;
Sec. 20, S½NW¼, N½SW¼, NE¼SE¼SW¼, and SE¼;
Sec. 21, S½S½, SW¼NW¼SW¼, and S½NW¼SE¼;
Sec. 23, S½N½, S½, SW¼NW¼NE¼, and SE¼NE¼NW¼;
Sec. 24, SW¼SW¼NE¼, E½SE¼SE¼NW¼, E½NE¼NE¼SW¼, S½NE¼SW¼, W½SW¼, NE¼SE¼, N½NE¼NW¼SE¼, W½NW¼SE¼, and S½SE¼;
Sec. 26, NW¼NE¼ and NW¼;
Sec. 27, N½ and N½SW¼;
Sec. 28, N½N½;
Sec. 29, NE¼NE¼NE¼.
T. 7 S., R. 37 E., unsurveyed
Sec. 1, S½NW¼, N½SW¼, SE¼SW¼, W½SE¼, and SE¼SE¼;
Sec. 2, SE¼;
Sec. 8, S½S½;
Sec. 9, SW¼, N½SE¼, NE¼NE¼, and S½NE¼;
Sec. 10, N½;
Sec. 11, N½;
Sec. 12, NE¼ and NE¼NW¼;
Sec. 16, N½NW¼NW¼;
Sec. 17, N½N½N½;
T. 9 S., R. 37 E.,
Sec. 19, lot 4.

The total area described aggregates approximately 5,525 acres, of which approximately 2,925 acres in Grant County, 1,725 acres in Baker County, and 390 acres in Union County are within the Whitman National Forest; and 485 acres in Grant County are within the Umatilla National Forest.

The applicant desires that the lands be withdrawn for streamside and roadside zones, and for a campground addition within the Wallowa-Whitman and Umatilla National Forests in Oregon.

A notice of the proposed withdrawal was published in the **Federal Register** on May 5, 1975, Vol. 40, page 19501, F.R. Doc. 75–11672.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, at the address shown below, on or before August 20, 1979. Notice of the public hearing will be published in the **Federal Register**, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before August 20, 1979.

The above described lands are temporarily segregated from location and entry under the mining laws, but not the mineral leasing laws, subject to valid existing rights, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except public hearing requests) in connection with this pending withdrawal application should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: July 9, 1979.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-22163 Filed 7-12-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Glen Canyon Dam Peaking Power Study, Arizona; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental impact statement on the Glen Canyon Dam Peaking Power Project located in north-central Arizona. This would be a single-purpose project to enlarge the powerplant at Glen Canyon Dam by as much as 250,000 kilowatt (kW), thus helping to meet the peak power requirements. The result would be an increase in the peak flows below the dam from a present maximum of 33,000 cubic feet per second (ft^3/s) to a new maximum of 40,000 ft^3/s, and longer periods of minimum flows which are 1,000 ft^3/s in winter and 3,000 ft^3/s in summer. The same volume of water would be released from Glen Canyon Dam with or without the project.

Feasibility studies were initiated in October 1978. A multiple-objective planning team is being formed consisting of four technial subteams: Recreation, Biology, Social, and Power. A public group is also being formed to provide the general public an opportunity to comment on the project.

A series of meetings are scheduled to introduce the public to the project study. Pursuant to the new Council on Environmental Quality regulations, the meetings will also serve as scoping sessions to identify significant environmental issues that should be studied and addressed in an environmental impact statement.

If you have not been contacted to participate in the study and would like to do so, please contact John Brown, Project Manager, Bureau of Reclamation, P.O. Box 640, Durango, CO 81301.

Public Meeting and Scoping Session Schedule

Page, AZ, July 24, 7:30 p.m., Visitors' Center.
Flagstaff, AZ, July 25, 7:30 p.m., Seminar Hall, H. S. Colton Research Center, Museum of Northern Arizona.
Phoenix, AZ, July 26, 7:30 p.m., Maricopa County Super-Visitors' Auditorium, 205 W. Jefferson.
Salt Lake City, UT, July 31, 7:30 p.m., Ramada Inn, 10th South and Main Street.

Dated: July 13, 1979.

Orrin Ferris,

Acting Commissioner.

[FR Doc. 79-22219 Filed 7-17-79; 8:45 am]

BILLING CODE 4310-09-M

Geological Survey

[Int DES 79-41]

Availability of Draft Environmental Statement on Development of Coal Resources, Northern Powder River Basin, Montana

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior in cooperation with the State of Montana have jointly prepared a draft regional environmental impact statement on proposed coal development and associated activities in southeastern Montana. The draft statement describes an area of about 7,500 square miles in the portion of the Powder River Basin in Montana exclusive of the Crow and Northern Cheyenne Indian Reservations.

The environmental statement is developed in two parts: an analysis of the cumulative impacts of three different projected rates of coal development in the region, and analyses of the impacts resulting from specific mining and reclamation plans for the expansion of the Big Sky mine, the proposed new Spring Creek and the Pearl mines, and the expansion of the mine mouth coal-fired electrical generation complex at Colstrip, Montana.

Of the projected regional coal production of 88 million tons per year (mty) through the year 1990, 13 mty would originate from the three proposed mines and seventy-five million tons per year from other existing and projected coal developed in the region. The proposed Colstrip electric power generation units 3 and 4 would require about 6 mty. The three mining and reclamation plans are for surface coal mines on existing Federal and private coal leases in Rosebud and Big Horn Counties, Montana.

The mining and reclamation plans included in this statement were submitted for review prior to the revision of the 30 CFR Part 211 regulations (43 FR 37181 *et seq.*, August 22, 1978) which incorporated the initial regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). These plans were also submitted prior to the April 12, 1979, effective date of the permanent regulatory program on Federal lands under SMCRA, 30 CFR Subchapter D, 44 FR 15332, March 13, 1979. Thus, the mine plans have not been reviewed for compliance with the applicable requirements of SMCRA and implementing regulations. The mine plans have been returned to the companies with a request that they be revised to meet the regulations. Prior to making any decision on approval of the mining and reclamation plans, the Office of Surface Mining Reclamation and Enforcement (OSM) will perform a technical review for compliance with SMCRA and the applicable regulations. Once the mine plans conform to the applicable requirements of those authorities, OSM will evaluate whether the final environmental impact statement is adequate for mine plan approval actions or whether a supplement or other environmental documents need to be prepared and distributed.

The draft statement is available for public review at the U.S. Geological Survey Library, Building 25, Denver Federal Center, Denver, Colo. 80225; the U.S. Geological Survey Library, Room 4A100, National Center, Reston, Va. 22092; the Montana Department of State Lands, 1625 11th Avenue, Helena, Mont. 59601; the Bureau of Land Management, P.O. Box 940, Miles City, Mont. 59301; U.S. Geological Survey, Area Mining Supervisor's Office, Federal Building/Courthouse, 111 South Wolcott, Room 305, Casper, Wyo. 82601; Forest Supervisor's Office, Custer National Forest, 2602 First Avenue North, Billings, Mont., Area Director's Office, Bureau of Indians Affairs, 316 North 26th St., Billings, Mont. 59101; Area Manager, U.S. Fish & Wildlife Service, 313 North 26th St., Billings, Mont. 59101; the

Sheridan County Fulmer Public Library, 320 North Brooks, Sheridan, Wyo. 82801; the Big Horn County Public Library, 419 North Custer Avenue, Hardin, Mont. 59034; the Montana State Library, 930 East Lyndale, Helena, Mont. 59601; and the Rosebud County Library, 201 North 9th Avenue, Forsyth, Mont. 59327.

A limited number of copies are available on request from the U.S. Geological Survey, Land Information and Analysis Office, Federal Center, Mail Stop 701, Denver, Colo. 80225; the Montana Department of State Lands, 1625 11th Avenue, Helena, Mont. 59601.

Written comments on the draft statement will be accepted until September 4, 1979. All substantive comments received will be considered in preparing the final environmental statement. Written comments should be addressed to Director, U.S. Geological Survey, National Center, Mail Stop 108, Reston, Va. 22092.

Notice is also given that oral and/or written comments will be received at public hearings to be held at the following locations: at Rosebud County Library, 201 North 9th Ave., Forsyth, Montana on August 22, 1979, at 1 p.m. and 7 p.m.; the Sheridan Center Motor Inn, Main Street, Sheridan, Wyo., on August 23, 1979, at 1 p.m. and 7 p.m. The hearings will remain in session until all testimony has been given. Anyone wishing to make oral presentations at the hearings should submit their requests in writing to the Federal Task Force Leader, U.S. Geological Survey, P.O. Box 1135, Billings, Mont. 59103; or to the Commissioner, Montana Department of State Lands, 1625 11th Avenue, Helena, Mont. 59601. Persons wishing to give oral comments are requested to limit their testimony to 10 minutes. Copies of complete oral statements and written comments presented at the hearings will be made part of the official record.

Dated: July 13, 1979.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 79-22117 Filed 7-17-79; 8:45 am]

BILLING CODE 4310-31-M

Office of Surface Mining Reclamation and Enforcement

Availability of Proposed Decision To Approve, With Stipulations, Coal Mining and Reclamation Plan for Public Review; Farrell Cooper Mining Co.—Red Oak, Latimer County, Okla.

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Availability of Proposed Decision to Approve, with stipulations, a Coal Mining and Reclamation Plan.

SUMMARY: Pursuant to 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining Reclamation and Enforcement has performed a technical review of a mining reclamation plan and has recommended approval of the proposed plan contingent on the applicant's acceptance of certain stipulations. The plan is described below.

Applicant	Mine Name	Location of lands to be affected by planned operations		
		State	County	Township, range, section
Farrell-Cooper Mining Company	Red Oak	Oklahoma	Latimer	T. 5 N., R. 22 E., Sect. 5.

Office of Surface Mining Reference No.: 36-0001. The mine is located approximately four miles northeast of Red Oak, Oklahoma and lies within the boundaries of the 500 acres of non-federal lands permitted by the Oklahoma State Department of Mines under amended mining permit leases #78/79-006-A. The plan proposes mining 70 acres of two restricted Indian leases in conjuction with mining the 500 acres permitted. The production rate is estimated to be 100,000 tons of coal per year for five years or until the stripminable reserves are exhausted. Mining will be an extended bench surface operation with haul back procedures by truck. All the coal will be shipped by truck. This coal mine would be one of a number of surface mining operations conducted in the Red Oak area of eastern Oklahoma.

The purpose of this notice is to inform the public that the Regional Director, Region IV, Office of Surface Mining Reclamation and Enforcement, has recommended, based on staff reviews and the reviews of the Oklahoma State Department of Mines, the Bureau of Indians, Affairs, and the Geological Survey, approval of the coal mining and reclamation plan, subject to stipulations which must be accepted by the applicant in order for the approval to take effect. Any persons having an interest which is or may be adversely affected by the recommended approval may, in writing, request a public meeting to discuss their views regarding the plan.

The Red Oak Mine was the subject of a site-specific analysis of impacts, mitigating measures, and alternatives in an environmental assessment report, titles "Environmental Assessment on Proposed Surface Mining and Reclamation Plan, for Farrell-Cooper Mining Company, Red Oak Mine." The report is filed with the OSM Region IV Office. The availability of the mining and reclamation plan for Red Oak was announced in the **Federal Register** on February 8, 1979 (FR DOC. 79-4633).

DATES: All requests for a public meeting must be made on or before August 8, 1979. No decision on the plan will be made by the Assistant Secretary — Indian Affairs, prior to the expiration of the 20-day period.

ADDRESSES: The mining and reclamation plan, the OSM staff analysis, and proposed stipulations are available for review in the Region IV Office of Surface Mining. Requests for a public meeting must be submitted, in writing, to the Regional Director, Region IV, Office of Surface Mining, Room 502, 818 Grand Avenue, Kansas City, Missouri 64106. Requests must include the name and address of the requestor.

FOR FURTHER INFORMATION CONTACT: Richard Dawes, Office of Surface Mining, Region IV, Room 426, 818 Grand Avenue, Kansas City, Missouri 64106, Phone (816) 374-5109

Paul L. Reeves,

Deputy Director.

[FR Doc. 79-22039 Filed 7-17-79; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-70]

Certain Coat Hanger Rings; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on June 6, 1979, and amended on June 25, 1979, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of the International Coat Hanger Manufacturing Company, 11785 Cardinal Circle, Garden Grove, California 92642, alleging that unfair methods of competition and unfair acts exist in the importation into the United States of certain coat hanger rings, or in their sale, by reason of the alleged coverage of such coat hanger rings by the claim of U.S. Letters Patent No. 3,208,708.

The complaint, as amended, alleges that the effect or tendency of the unfair methods of competition and unfair acts is to substantially injure and industry, efficiently and economically operated in the United States. Complainant requests (1) exclusion from entry into the United States, except under bond, of the imports in question during the period of the investigation, and (2) permanent exclusion from entry into the United States of the imports in question after a full investigation.

Having considered the complaint, as amended, the Commission on July 3, 1979, *ordered*, That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine whether there is, or there is reason to believe that there is, a violaiton of subsection (a) of this section in the unlawful importation of certain coat hanger rings into the United States, or in their sale, by reason of the alleged coverage of such coat hanger rings by the claim of U.S. Letters Patent No. 3,208,708, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which the notice of investigation shall be served:

(a) The complainant is—

International Coat Hanger Manufacturing Company, 11785 Cardinal Circle, Garden Grove, California 92642.

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of such devices into the United States, or in their sale, and are parties upon which the complaint, as amended, shall be served—

Nagel Manufacturing Company, 9100 United Drive, P.O. Box 9386, Austin, Texas 78757.
Consolidated Automotive P.O. Box 1047, Austin, Texas 78767.
Beverly Coat Hanger Company 500 Indiana Street, San Francisco, California 94107.

(c) Jo Ann Miles, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge, Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washinton, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure, (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the amended complaint. Extensions of time for submitting a response will not granted unless good and sufficient cause is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and to authorize the presiding officer and the Commission, without further notice of the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, as amended, is available for inspeciton by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, and in the Commission's New York City office, 6 World Trade Center, New York, New York 10048.

By order of the Commission.

Issued: July 13, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-22212 Filed 7-17-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-55]

Certain Novelty Glasses; Commission Determination and Order

The U.S. International Trade Commission conducted an investigation under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the unauthorized importation into or sale in the United States of certain novelty glasses [1] by reason of the alleged infringement of common law trademarks, unlawful copying of trade dress, and false designation of origin, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. On June 27, 1979, the Commission determined that there is a violation of section 337 [2] and ordered that novelty glasses which copy the trade dress of complainants' glasses be excluded from entry into the United States.[3]

The purpose of the Commission determination, order, and opinions are to provide for the final disposition of the Commission's investigation of certain novelty glasses.

Determination

Having reviewed the record compiled in this investigation, including (1) the submissions filed by the parties, (2) the recommended determination of the administrative law judge, and (3) the transcript of the public hearing before the Commission on June 14, 1979, the Commission on June 27, 1979 (Chairman Parker dissenting), determined—

1. That with respect to both respondents in investigation No. 337-TA-55 there is a violation of section 337 of the Tariff Act of 1930, as amended, in the importation into and sale in the United States of certain novelty glasses by the owner, importer, consignee, or agent of either, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States;

2. That the appropriate remedy for such violation is to direct that novelty glasses manufactured abroad which unlawfully copy the trade dress of

[1] These are plastic tumblers used to serve beverages. Each has a compartment at the bottom of the glass which contains either a small game, such as roulette, or rocks (called "On the Rocks").

[2] Chairman Parker found no violation of sec. 337 in this investigation.

[3] Commissioner Moore, in addition to finding violation on the basis of unlawful copying of trade dress, also found violation on the basis of infringement of common law trademarks and false designation of origin.

complainants' novelty glasses be excluded from entry into the United States;

3. That, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, such novelty glasses should be excluded from entry; and

4. That the bond provided for in subsection (g)(3) of section 337 of the Tariff Act of 1930 be in the amount of 482 percent ad valorem, F.O.B. Hong Kong.

Order

Accordingly, it is hereby ordered—

1. That novelty glasses manufactured abroad which unlawfully copy the trade dress of complainants' novelty glasses are excluded from entry into the United States; [4]

2. That every 6 months complainants provide to the Commission information, including, but not limited to affidavits and samples, as to whether they are continuing to use the trade dress, as described in note 4, below;

3. That the novelty glasses ordered to be excluded from entry are entitled to entry into the United States under bond in the amount of 482 percent ad valorem, F.O.B. Hong Kong, from the day after this order is received by the President pursuant to section 337(g) of the Tariff Act of 1930, as amended, until such time as the President notifies the Commission that he approved or disapproves this action, but, in any event, not later than 60 days after such date of receipt;

4. That this order be published in the **Federal Register** and that this order, and the opinions in support thereof, be served upon each party of record in this investigation and upon the U.S. Department of Health, Education, and Welfare, the U.S. Department of Justice, the Federal Trade Commission, and the Secretary of the Treasury; and

5. That the Commission may amend this order at any time.

By order of the Commission.

Issued: July 11, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-22210 Filed 7-17-79; 8:45 am]

BILLING CODE 7020-02-M

[4] Complainants' trade dress consists of the following:

These glasses are tumblers (approximately 3½ inches in height and 3½ inches in diameter) made of a clear plastic or acrylic substance and constructed with a false bottom. Inside the false bottom is either a colorful facsimile of a gambling game or rocks. Those glasses with a game bear a label describing the enclosed game ("Craps," "Big Six," "Roulette," or "Jackpot") in block-type lettering approximately three-fourths of an inch in height. Those glasses with the false bottom filled with rocks bear the label "On the Rocks" in the same lettering design and of the same size as the game-type glasses. The lightweight cardboard boxes (approximately 7⅝ inches x 7⅝ inches x 3⅝ inches) in which the game-type glasses are sold hold four glasses and utilize a black background with color, photographic reproductions of the enclosed glasses. The color photographs are of the glasses from the side and top perspectives.

Exhibits of complainants' trade dress, which the Commission considered in arriving at its determination, may be examined at the Office of the Secretary during official business hours. Photographs of complainants' trade dress will be sent to the Customs Service in order to facilitate the administration of this order.

[Investigation No. 337-TA-62]

Certain Rotary Scraping Tools; Amendment to the Supplemented Complaint and Notice of Investigation

Upon consideration of Motion Docket Nos. 62-1, 62-2, and 62-4, as certified to the Commission by the administrative law judge ("ALJ") on April 16, 1979, together with addendum thereto dated May 29, 1979, and the supporting documents filed by the complainant and the Commission investigative attorney, and the ALJ's recommendation of April 16, 1979, that the supplemented complaint and notice of investigation be amended, the Commission is ordering:

(1) The addition of the following new respondents to the supplemental complaint and notice of investigations:

Bandwagon, Inc., 54 Industrial Way, Wilmington, Mass. 01887.
Eastman Sales Corp., 15 Industrial Park, Waldwick, N.J. 07463.

(2) The addition of the following new respondents to the notice of investigation:

Boo Ping Industrial Co., Ltd., First Floor, No. 38, Lane 194, Pao Ping Road, Yeng Ho, Taipei, Taiwan.
V. Lee Industrial Co., Ltd., Sixth Floor, 21-1, Lane 216, Chung Shiao E. Road, Sec. 4, Taipei, Taiwan.
Long Lee Industrial Co., 17 Ashley Road, Fourth Floor, Kow-Loon, Hong Kong.
Best Associates Inc., 10 Floor #32, Te Hui Street, Taipei, Taiwan.
Elegant Worldwide Co., Ltd., Fourth Floor, 117 Sec. 2, Fu Hsing S. Road, Taipei 106, Taiwan.
Trans Sun (Taiwan) Corp., G.P.O. Box 749, Taipei, Taiwan.
Robin & Leslie Company, Ltd., P.O. Box 68-1952, Taipei, Taiwan.
Chun Her Machinery Industrial Co., Ltd., 141-1 Ho Ping Road, Taipei, Taiwan.
Fuerza International Co., Ltd., 6/F, No. 247-1, Sec. 3, Chung Hsiao E. Road, Taipei, Taiwan.
Pay-N-Pak, 1209 S. Kent Avenue, Kent, Wash. 98031.
Belknap Hardware, P.O. Box 32900, Louisville, Ky. 40232.
Bishop Hardware, 214 N. Walnut Street, Springfield, Ill. 62702.
Bradlees, No. 1 Bradlee Circle, Braintree, Mass. 02184.
Pamida, 8800 "F" Street, Omaha, Neb. 68124.
Test Rite Products, 34-50 Linden Place, Flushing, N.Y. 11354.
Collins Trading Company, Ltd., 350 Fifth Avenue, New York, N.Y. 10018.
Miramar Corporation, Ltd., 129, Second floor, Sec. 1, Chung Shan N. Road, Taipei, Taiwan.
Golden Mean Trading Co., Ltd., Room 1201 Everest Bldg., 12th Floor, 241-243, Nathan Road, Kowloon, Hong Kong.

(3) The supplemented complaint be amended to show new subparagraph (d) replacing previous subparagraph (d) to section V on page 8.

(d) *Other Actions*—In addition to the above, suit has been instituted recently in Federal Court in New York against Fay Products, Inc., alleging patent infringement and unfair competition. A copy of said complaint is included as Exhibit H(e). Action has also been instituted in the same court against Lomart Industries, Inc., a domestic infringer. Such action is in preparation, but not yet filed. Counsel has also been retained in Maryland to bring similar action against C.V.I. Industries, Inc. It is not yet fully known whether or not C.V.I.'s products are imported (in whole or part) or of domestic manufacture. Counsel has also been consulted in California regarding alleged infringement by companies there (both domestic and importing). Counsel may be retained concerning certain interference with business in foreign jurisdictions (such as the United Kingdom by COLONIAL).

(4) The supplemented complaint be amended to show the following sentences at the end of paragraph 34 on page 18:

See comparative Chart illustrating by year and category (a) "Roto-Stripper Products" and (b) "Non-Roto-Stripper Products" as to Production, Sales, Inventory, Labor Cost and Profitability. Said chart is filed as Exhibit M.

(5) The supplemented complaint be amended to add the following new subparagraph after the material added by (3) above.

(e) *Supplemental Information.* All defendants in the Nylo matter (in the U.S. District Court in Connecticut) have defaulted on the issue of validity and infringement. The matter is proceeding on the issue of unfair competition and damages.

Thompson has initiated action in the Federal courts (Connecticut) against Caldors, a major regional discount

chain, for patent infringement and unfair competition.

(6) The motion (Motion No. 62–1) be denied insofar as it pertains to the addition of Marco Hardware and Caprice Products as respondents.

(7) The Secretary serve a copy of the Commission notice and the Commission Action, Order, and Opinion upon each party of record to the investigation and upon the U.S. Department of Justice, the U.S. Department of Health, Education, and Welfare, and the Federal Trade Commission.

Copies of the "Commission Action, Order, and Opinion" are available to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, telephone (202) 523–0161.

By order of the Commission.

Issued: July 13, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79–22211 Filed 7–17–79; 8:45 am]

BILLING CODE 7020–02–M

[303–TA–10]

Oleoresins From India; Determination of No Injury or Likelihood Thereof

On the basis of its investigation the Commission determines (Chairman Parker dissenting) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of oleoresins from India, which are accorded duty-free treatment, upon which the Department of the Treasury has determined that a bounty or grant is being paid within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

On April 4, 1979, the United States International Trade Commission received advice from the Department of the Treasury that a bounty or grant is being paid with respect to oleoresins imported from India, entered under item 450.20 of the Tariff Schedules of the United States (TSUS) and accorded duty-free treatment. Accordingly, the Commission, on April 13, 1979, instituted investigation No. 303–TA–10, under section 303(b) of the Tariff Act of 1930, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigation and of the public hearing to be held in connection therewith was published in the **Federal Register** of April 18, 1979 (44 FR 23133). On May 22, 1979, a public hearing was held in Washington, D.C., at which time all interested persons were provided the opportunity to appear in person or by counsel.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

The Treasury investigation resulting in the countervailing duty determination was initiated as a result of a petition filed with the Treasury Department in March 1978, by Kalsec, Inc., Kalamazoo, Michigan.

Statement of Reasons of Commissioners Alberger, Moore, Bedell, and Stern

On the basis of the information obtained in this investigation, we determine that an industry in the United States is not being and is not likely to be injured and is not prevented from being established,[1] by reason of the importation of oleoresins from India which the Department of Treasury has determined are receiving a bounty or grant from the Government of India.

The Imported Article

Oleoresins are thick, liquid extracts of the flavor of spices which are used primarily as seasoning and coloring agents by the food industry. Although Kalsec, Inc. claimed that Indian imports threaten the producers of all oleoresins, the petitioner sought to focus attention specifically on black pepper oleoresin. While 88 percent of the imports of spice oleoresins from India in 1978 were of the black pepper type, black pepper oleoresins accounted for only about 16 percent of apparent U.S. consumption of spice oleoresins in 1978. Paprika oleoresin accounts for more than half of apparent U.S. consumption of all spice oleoresins, but India neither produces not exports paprika oleoresin.

The Domestic Industry

In making our determination, we consider the relevant domestic industry to consist of all U.S. facilities used in the production of all spice oleoresins. Seven U.S. firms produce a variety of oleoresins. In most cases, they shift production between different types of oleoresins depending on the demand, spice supply, and economies of scale involved. Identical equipment, technology, and labor skills are employed in the production of the various oleoresins.

In a case such as the present one, we believe a broad definition of the industry to be appropriate. When a multiproduct producer has the option of shifting productive resources between product lines, the producer may be able to avert injury when sales of a single article decline. Such a switch in production from one kind of oleoresin to another can be accomplished without the dislocation of labor or significant expenditure of capital.

The Bounties or Grants

The U.S. Department of Treasury determined that the Government of India provides Indian manufacturers/exporters of oleoresins with various refunds of indirect taxes under the government's "Cash Assistance Program." The refunds amount to a bounty or grant having a net benefit of 4.23 percent of the FOB price of the exported product as of April 1979.

No Injury by Reason of Subsidized Imports

It is clear that the U.S. oleoresin industry is not being injured by reason of subsidized imports from India. In fact, the industry has experienced uninterrupted improvement in its economic condition during the period of the investigation, 1975 through April 1979. We have considered such indicia as domestic shipments, exports, financial performance, employment, production, capacity, capacity utilization, and inventories. The data we have used are in value terms because it is not possible to meaningfully aggregate quantities of different oleoresins. In using these value data we recognize that inflation may skew some of the measures.

The value of domestic shipments of spice oleoresins rose from $6.5 million (1975) to $9.4 million (1978), an increase of 45 percent. Data furnished to the Commission by domestic producers show that declines in the value of shipments of black pepper oleoresin have been more than offset by increasing shipments of paprika and other spice oleoresins. During the same period, the value of U.S. exports of these oleoresins rose 35 percent. Leading this export rise was black pepper oleoresin, the product allegedly affected the most by Indian imports.

Starting from a weak base in 1976, the financial performance of the domestic industry shows a strong improvement. Net sales reached $16.5 million in 1978, a 28% improvement over the 1976 level.

[1] Prevention of establishment of an industry is not issue in this investigation and will not be discussed further.

The growth of the industry's net operating profits was even more marked. From $498,000 in 1976, profits grew 262 percent in two years to $1.8 million. During the same period, the ratio of net operating profit to net sales rose from a low of 3.8 percent to 10.9 percent. No firms reported net operating losses for 1977 or 1978; indeed, four of the firms reported increased net operating profits in each of those years. Employment of production and related workers in this capital intensive industry increased from 63 persons in 1975 to 68 persons in 1978.

Other factors employed by the Commission in its investigations also fail to support the petitioner's claim of injury. Because of aspects peculiar to this industry, each of these factors requires careful examination.

Large fluctuations in production and capacity to produce oleoresins are attributable to the varying product mix of U.S. producers and the range of extraction rates of the several spices produced. Some firms only extract spice oleoresins in periods of tight supply or on the basis of specific customer orders. When such demand slackens, they may switch to other extracts. Such a decline in production and capacity need not signify a significant idling of production capacity for these firms. Extraction rates for the oleoresins of the different spices and herbs used as inputs range between 100 and 1,000 pounds per hour. The data for the industry show a marked decline in both production and capacity in 1978 after uneven increases in both between 1975 and 1977. This decline, however, resulted from a major producer's decision in 1978 to extract an unusually large quantity of slower running, higher unit value specialty oleoresins.

The overall capacity utilization ratio for the entire spice oleoresin industry was stable each year during the 1975–1978 period at about 55 percent. Such a capacity utilization may seem low compared to figures for other industries. However, reserve capacity in this industry permits concentrated runs of specialty spices which tend to deteriorate rapidly in their raw state.

Although the ratio of inventories to shipments varied between 55 percent and 79 percent in the period, increases in inventories are attributable to the industry's practice of extracting oleoresin from raw spice well in excess of demand in order to take advantage of the seasonality of raw spice supplies, avoid the loss of spice in its perishable raw form, and reap the economies of scale associated with large production runs.

The U.S. market penetration of imports from India increased from about 2 percent of apparent consumption in 1975 to about 8 percent in 1978. Though Indian black pepper oleoresins (constituting 88% of that nation's total oleoresin exports to the U.S.) undersold the domestic product, the margin of underselling has substantially decreased since 1976. Notwithstanding these two factors, the available information clearly shows that the industry is not being injured.

No Likelihood of Injury by Reason of Subsidized Imports

The trends evident in the factors we have discussed do not suggest the likelihood of injury. All parties seem to feel that any likelihood of future injury would be centered primarily on the likelihood of Indian manufacturers of oleoresin to begin exporting paprika oleoresin to the United States. Paprika oleoresin accounted for more than half of apparent U.S. consumption of all oleoresins from 1976 through 1978. A number of considerations persuade us that there is no real and imminent likelihood that India will begin exporting paprika oleoresin. India neither grows paprika nor produces its oleoresin at the present time. Because the cultivation of paprika with the precisely desired color properties is difficult to achieve, its successful introduction to Indian agriculture would likely require a period of development; [2] there is no indication of the existence of such a program or of one being developed. Because Indians do not customarily use paprika, no local market exists for the raw spice. Demand by the oleoresin industry for export alone would probably not be sufficient to sustain paprika farming in the absence of a domestic market for the raw spice. Importation of the raw spice to India for processing into oleoresin also appears unlikely because of its perishability and the transport costs from Spain where it is grown on a large scale and where it is made into oleoresin in part for export to the United States. High quality Spanish paprika oleoresin production is running at only 50 percent of capacity. It is not clear why India, without any going paprika oleoresin operations and with no promising access to home or foreign sources of raw paprika, would wish to enter the U.S. market where Spain is well established as a supplier facing none of these obstacles. Thus, we find that the domestic industry is in no real and imminent likelihood of injury by reason of the imports in question.

Conclusion

On the basis of all these considerations, we must conclude that the domestic industry is neither being injured nor is likely to be injured by reason of subsidized imports from India. Overall capacity utilization has remained stable. Its level as well as the fluctuations of production, capacity, and inventories are not indicative of injury because of the peculiarities of the industry. Employment has been growing slowly but steadily. Sales have grown in the last three years. Finally, profits have shown substantial improvement between 1976 and 1978, and by the petitioner's own admission are now "satisfactory." [3]

Views of Chairman Joseph O. Parker

On April 4, 1979, the United States International Trade Commission received advice from the Department of the Treasury that a bounty or grant is being paid with respect to oleoresins imported from India. The final countervailing duty determination published by the Department of the Treasury [4] states that the net amount of the bounty or grant has been ascertained by Treasury to be 11.73 percent of the f.o.b. price for those goods exported from India to the United States before April 1, 1979, and 4.23 percent of the f.o.b. price for those goods exported from India to the United States on or after April 1, 1979. On April 13, 1979, the Commission instituted investigation No. 303–TA–10 under section 303(b) of the Tariff Act of 1930, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established,[5] by reason of the importation of such merchandise into the United States. Both the legislative history of the amendments to section 303 [6] and past Commission determinations under this section [7] confirm that it was derived from and is intended to be interpreted in the same manner as the identical language in section 201 of the Antidumping Act.

[2] The petitioner testified that the alleged threat to U.S. paprika oleoresin producers "may be five to ten years away . . . ." (Hearing Transcript, May 22, 1979, p. 72.)

[3] Hearing Transcript, p. 41.

[4] 44 FR 21009.

[5] Prevention of establishment of an industry is not an issue in this investigation and will not be discussed further.

[6] U.S. House of Representatives, *Trade Reform Act of 1973: Report of the Committee on Ways and Means* . ., H. Rept. No. 93–571 (93d Cong., 1st sess.), 1973, p. 74.

[7] E.g., *Certain Zoris From the Republic of China (Taiwan): Determination of No Injury or Likelihood Thereof or Prevention of Establishment in Investigation No. 303–TA–1* USITC Publication 787, 1976.

Determination

On the basis of the information obtained in this investigation, I determine that an industry in the United States is likely to be injured by reason of the importation of oleoresins from India which the Department of the Treasury has determined are receiving a bounty or grant from the Government of India.

Likelihood of Injury

The final countervailing duty determination published by the Department of the Treasury describes the products which are the subject of this investigation as oleoresins classifiable under item 450.20 of the Tariff Schedules of the United States Annotated (TSUSA). An oleoresin is a thick, liquid extract of the flavor of a spice used primarily in the food industry as a seasoning.

Black pepper oleoresin constituted almost 90 percent of the value of all oleoresins imported into the United States from India in 1978. The remainder of the imports from India consisted primarily of oleoresins of ginger, celery seed, and turmeric.

About 30 different oleoresins are marketed in the United States. Of these, the following account for about 90 percent of U.S. consumption: paprika, black pepper, ginger, chilli pepper, celery seed, and tumeric. While seven U.S. firms produced oleoresins in 1978, some of them produced only one type. The process used in the production of oleoresins permits the same equipment to be used in the production of different types of oleoresins. After the production of one type the equipment must be thoroughly cleaned, but it is then readily convertible to the production of another type. Frequently, the type of oleoresin being produced at any one time depends primarily on the availability and price of the raw material used in its production. After the oleoresin is produced, quantities are placed in inventory and marketings are made from this inventory for some time thereafter. Thus, imports of a particular type of oleoresin have an impact not only on domestic production of that type of oleoresin, but also on the total utilization of the productive facilities. For these reasons, I have considered the domestic industry to be the U.S. facilities used in the production of all spice oleoresins.

During the last 4 years, imports of oleoresins from India established a sharp upward trend. The value of the imports increased from $225,000 in 1975 to about $1,400,000 in 1977 and 1978 or by more than 500 percent. As a share of apparent U.S. consumption, imports from India increased from about 2 percent in 1975 to above 8 percent in 1977. In 1978, the year in which the countervailing duty petition was filed, they remained at about 8.0 percent of apparent consumption. Since most of these imports from India were black pepper oleoresin, their penetration of the market for that product was significantly higer. By 1978, these imports accounted for almost half of apparent domestic consumption of black pepper oleoresin. This trend of increasing penetration, particularly in the major oleoresins, is likely to continue if imports from India continue to benefit from a bounty or grant from the Indian Government.

From the information obtained in the Commission's investigation, it is apparent that consumers of the oleoresins under investigation generally regard the imported and the domestically produced products as substantially equivalent in terms of quality. Thus, price is a significant factor in determining the extent to which imports are able to penetrate the U.S. market. Price information gathered during the Commission's investigation establishes that oleoresins from India, presently primarily black pepper, undersold the domestically produced black pepper oleoresin throughout the period January 1976-May 1979, with the exception of two 3-month periods when they were approximately the same price. The margin of underselling can be accounted for by the bounty or grant being paid as determined by the Department of the Treasury.

Industry sources estimate that ginger oleoresin ranks third in value of U.S.-produced oleoresins, behind paprika and black pepper. It ranks second in imports from India, and that country is the principal source of the raw material used by U.S. producers in the production of ginger oleoresin. Thus, India has access to the primary raw material used in the production of ginger oleoresin and has begun exporting this oleoresin to the United States. Pricing information gathered during the Commission investigation indicates that imports of ginger oleoresin from India began during the first quarter of 1977. These imports undersold domestically produced ginger oleoresin from the time of their introduction into the U.S. market through the second quarter of 1979 with the exception of the third quarter of 1978.

It is apparent that the bounty or grant determined by the Department of the Treasury has been a significant factor in aiding imports of both black pepper and ginger oleoresins, the second and third most important oleoresins, in underselling the domestically produced products and increasing their penetration of the U.S. market. In my judgment, the information obtained in this investigation indicates that increasing penetration by these imports is likely to continue and is likely to cause injury to the domestic industry. There is no indication in the record of this proceeding that the Indian Government has given any assurances that the bounty or grant will be terminated. Nor has the Government of India signed the countervailing duty/subsidy code recently signed by the United States at the Multilateral Trade Negotiations. Thus, if the bounties or grants are likely to continue as found by the Department of the Treasury, they will contribute to the competitive advantage of oleoresins imported from India, particularly black pepper and ginger. Increasing penetration of the major oleoresin markets resulting from underselling is likely to cause injury to the domestic industry through further loss of markets, decreasing capacity utilization, and the resulting adverse effects on profit and employment. In my judgment, it is clear that the duty-free imports are likely to cause more than frivolous injury to the domestic industry.

On the basis of these factors, I have determined that an industry in the United States is likely to be injured by the continued importation of these products, which receive the benefits of a bounty or grant from the Government of India.

Issued: July 5, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-22209 Filed 7-17-79; 8:45 am]

BILLING CODE 7020-02-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-65]

NASA Advisory Council; Meeting

The NASA Advisory Council (NAC) will meet on August 15, to 17, 1979, in Room 213, Building 200, Ames Research Center, Moffett Field, California 94035. The meeting will be open to the public up to the seating capacity of the room (approximately 45 persons, including Council members and other participants). Visitors will be requested to sign a vistor's register.

The NASA Advisory Council was established as an inter-disciplinary

group to advise NASA senior management on NASA's aeronautics and space programs. The Council is concerned with providing advice in the substantive areas of aeronautics, life sciences, space and terrestrial applications, space science, space systems and technology, and history as they relate to aeronautics and space programs. The Council is chaired by Dr. William A. Nierenberg and has a total of 19 members. Standing committees containing additional members report to the Council.

The following list sets forth the approved schedule for the meeting. For further information, contact the Executive Secretary, Mr. Nathaniel B. Cohen, Area Code 202 755-8383, NASA Headquarters, Washington, DC 20546.

Agenda

August 15, 1979

8:15 a.m.—Introduction
8:30 a.m.—FY 1981-1985 Five Year Plan—Aeronautics
12:30 p.m.—FY 1981-1985 Five Year Plan—Space Science
3:30 p.m.—FY 1981-1985 Five Year Plan—Space Tracking and Data Systems
5:00 p.m.—Adjourn

August 16, 1979

8:00 a.m.—FY 1981-1985 Five Year Plan—Space Systems and Technology
11:00 a.m.—FY 1981-1985 Five Year PLan—Energy
1:00 p.m.—FY 1981-1985 Five Year Plan—Space and Terrestrial Applications
4:00 p.m.—Report on NASA Advisory Council Innovation Study
5:30 p.m.—Adjourn

August 17, 1979

8:30 a.m. FY 1981-1985 Five Year Plan—NASA Advisory Council Report to NASA
11:00 a.m.—Adjourn.

Dated: July 10, 1979.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

[FR Doc. 79-22075 Filed 7-17-79; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Advisory Committee; Meeting

June 21, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-364 as amended,) notice is hereby given that a meeting of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506, in room 314, from 9 a.m. to 5:30 p.m. on Friday, August 3, 1979.

The purpose of the meeting is to review NEH Fellowships in Category B applications in European History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1980.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, NW., Washington, D.C. 20506, or call area code 202-724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 79-22218 Filed 7-17-79; 8:45 am]

BILLING CODE 7536-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21144; 70-6152]

Cedar Coal Co. et. al.; Proposed Mining Equipment Leases by Coal Mining Subsidiaries

July 11, 1979.

Cedar Coal Company, Southern Appalachian Coal Company, 301 Virginia Street East, Charleston, West Virginia 25327.

Central Ohio Coal Company, 301 Cleveland Avenue, S.W., Canton, Ohio 44702.

Southern Ohio Coal Company, Post Office Box K, Moundsville, West Virginia 26041.

Notice is hereby given that Cedar Coal Company ("Cedar") and Southern Appalachian Coal Company ("SACO"), coal mining subsidiaries of Appalachian Power Company ("Appalachian"), and Central Ohio Coal Company ("COCO") and Southern Ohio Coal Company ("SOSO"), coal mining subsidiaries of Ohio Power Comapny, which, like Appalachian, is an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, have filed with this Commission a post-effective amendment to their application previously filed and amended pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9 and 10 of the Act as applicable to the proposed transactions. All interested persons are referred to the application, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transactions.

By order dated August 30, 1978 (HCAR No. 20687), applicants were authorized to enter into leasing arrangements with Manufacturers Hanover Trust Company ("MHT") under separate Master Lease Agreements (the "MHT Leases") pursuant to which MHT agreed to lease to applicant coal mining equipment with a total cost to MHT not exceeding $60,000,000. Pursuant to the same order applicants and Central Appalachian Coal Company ("CACO," another coal mining subsidiary of Appalachian, which was a party to the original application but is not a party to the instant post-effective amendment) were authorized to enter into leasing arrangements with BLC Corporation ("BLC") under separate Master Lease Agreements (the "BLC Leases") pursuant to which BLC agreed to lease to applicants and CACO coal mining equipment with an aggregrate amortized value not exceeding $25,000,000.

In the original application it was stated that applicants and CACO anticipated leasing coal mining equipment under the MHT and BLC Leases, having a total estimated cost as set forth below, during the years indicated:

[Dollars in thousands]

Company	Year	Estimated equipment cost	Contingency allowance	Total
Cedar	1978	$12,640	$362	$13,002
	1979	5,303	152	5,455
CACO	1978	2,465	71	2,536
	1979			
COCO	1978	6,555	188	6,743
	1979	4,711	136	4,847
SACO	1978	14,728	421	15,149
	1979	1,150	33	1,183
SOCO	1978	20,207	579	20,786
	1979	14,873	426	15,299
		82,632	2,368	85,000

The foregoing schedule has not been met because of changes in mining plans and other delays. The total cost of equipment leased during 1978 and 1979 (through May 31) was approximately as follows:

[In thousands of dollars]

Company	1978	[1]1979	Total
Cedar	$1,184	$3,994	$5,178
CACO		15	15
COCO	3,125	150	3,275
SACO	2,100	3,536	5,636
SOCO	59	9,528	9,587
	6,468	17,223	23,691

[1] Through May 31.

Of the equipment leased through May 31, 1979, approximately $23,414,000 was leased under the MHT Leases and $277,000 under the BLC Leases. MHT's lease commitment under the MHT leases expired June 1, 1979. BLC's lease commitment under the BLC Leases remains in effect until modified or terminated by the parties.

By post-effective amendment applicants request authorization for leasing arrangements they have concluded with the Commonwealth Plan, Inc. ("Commonwealth"), a subsidiary of Bankers Leasing Corporation and an affiliate of BLC, uncer separate Master Leasing Agreements ("Commonwealth Leases") pursuant to which Commonwealth is committed to lease to applicants, on or before March 31, 1980, certain mining equipment having a total aggregate acquisition cost not to exceed $20,000,000. Applicants entered into the Commonwealth Leases May 4, 1979, and by separate letter agreement of the same date said leases are not to become effective unless and until approved by the Commission. With the Commonwealth Leases ($20,000,000), the leases entered into through May 31, 1979 ($23,691,000) and the remaining commitment under the BLC Leases ($24,723,000), applicants and CACO will have lease financing arranged for $68,414,000 of equipment of the $85,000,000 of equipment for which authorization was initially given. Lease arrangements for the remaining $16,586,000 balance of equipment will be the subject of future application to this Commission.

The Commonwealth Leases provide for the lease on or before March 31, 1980, to applicants of various types of mining equiment, having an aggregate acquisition cost, as defined, not to exceed $20,000,000 (of which no more than $2,000,000 may be for equipment to be amortized over 40 quarters). Rents are payable quarterly and provide for the full amortization of the acquisition cost of each unit of equipment over a period of either 12, 20, 28 or 40 quarters. The quarterly rental payments per $1,000 of acquisition cost are $97.369 over a 12-quarter term, $64.026 over a 20-quarter term, $49.962 over a a 28-quarter term and $29.702 over a 40-quarter term. Such quarterly payments contain an implicit interest rate to the lessor (assuming no residuals) of 9.92% per annum (on a 360-day year basis). When the cost of an item is fully amortized the quarterly rental payment becomes an amount equal to 0.125% of its acquisition cost. The Commonwealth Leases provide for the term lease of each unit of equipment for a period from delivery until one year from the first day of the first full calendar quarter that the unit is under lease, with automatic quarterly extensions until the lessee elects to terminate. Provision is also made for the sale of equipment that becomes obsolete or is no longer useful, and for the termination by Commonwealth of any such lease if the coal supply agreement between the lessee and its immediate parent is terminated or modified in a way that in Commonwealth's judgment adversely and materially affects the lessee's ability to perform its obligation under such Commonwealth Lease. Investment tax credits will be for the account of the lessees. The Commonwealth Leases are net leases, with all expenses directly related to the transaction borne by the lessee. Commonwealth (and its assignee) will be indemnified by the lessees against certain liabilities and risks of loss.

It is stated that Commonwealth intends to finance the equipment by borrowing from The First National Bank of Boston, to whom Commonwealth may grant chattel mortgages and may assign rents due under the Commonwealth Leases.

There are no additional fees and expenses to be incurred in connection with the proposed transaction. It is stated that no 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 August 6, 1979, request in writing that a hearing be held on such matter, stating the nature of this interest, the reasons for such request, and the issues of fact or law raised by said application, as amended by said post-effective amendment, 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 applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended by said post-effective amendment or as it may be further amended, may be granted 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 and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authorty.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-22072 Filed 7-17-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21143; 70-6330]

Ohio Power Co.; Proposed Issuance and Sale of First Mortgage Bonds to Institutions Pursuant to Claimed Exemption From Competitive Bidding

July 11, 1979.

Ohio Power Company, 301 Cleveland Avenue, S.W., Canton, Ohio 44702.

Notice is Hereby Given that Ohio Power Company ("Ohio Power"), an electric utility subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b) and 12(c) of the Act and Rules 42(b) and 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized

below, for a complete statement of the proposed transaction.

Ohio Power proposes to issue and sell by private placement $40,000,000 aggregate principal amount of its first mortgage bonds ("Bonds"). The Bonds will be sold at par, will mature September 1, 1989, will bear interest payable semiannually at a rate of 10.75% per annum, will be subject to a sinking fund requiring the annual redemption of $2,000,000 principal amount commencing September 1, 1984, and will be sold to the Equitable Life Assurance Society ($16,000,000), Metropolitan Life Insurance Company ($16,000,000) and John Hancock Mutual Life Insurance Company ($8,000,000 of which $3,000,000 will be acquired by a subsidiary). The Bonds will not be redeemable prior to September 1, 1984, if such redemption is for the purpose of refunding them, directly or indirectly, through the use of borrowed funds having an effective interest cost less than 10.75%.

The Bonds will be issued under and secured by Ohio Power's mortgage and deed of trust, dated as of October 1, 1938, as amended and supplemented and as to be further amended and supplemented by a supplemental indenture. The net proceeds from the sale of the Bonds will be used to pay at maturity the $40,000,000 principal amount of Ohio Power's first mortgage bonds, 6⅝% Series, due October 1, 1979.

Ohio Power claims exemption from the competitive bidding requirements of Rule 50 for its sale of the Bonds pursuant to Rule 50(a)(2). It states that Bonds will have a maturity of less than 10 years, will be issued to institutional investors and that no finder's or other fee is to be paid to a third person in connection with the sale of the Bonds. Ohio Power further claims that the terms of the Bonds compare favorably with the terms of the most recent sale of first mortgage bonds due May 1, 1987, by Apppalachian Power Company, another electric utility subsidiary of AEP, whose $70,000,000 bonds recently sold (pursuant to authorization in HCAR No. 21040, May 7, 1979) at an effective interest cost of 11.15% (11% bond rate with an underwriters' spread of .771%).

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Public Utilities Commission of Ohio has jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction thereover.

Notice is further given that any interested person may not later than August 7, 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 said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as filed or as it may be amended, may be granted and 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 and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-22073 Filed 7-17-79; 8:45 am]

BILLING CODE 8010-01-M

[Release 10772; 811-1750 et. al.]

Sentinel Growth Fund, Inc.; Filing of Applications Pursuant to Section 8(f) of the Act for Orders Declaring That Applicants Have Ceased To Be Investment Companies

Sentinel Growth Fund, Inc. (811-1750)
Sentinel Bond Fund, Inc. (811-1751), and
Sentinel Trustees Fund, Inc. (811-2117).
National Life Drive, Montpelier, Vermont 05602.

July 10, 1979.

Notice is hereby given that Sentinel Growth Fund, Inc. ("Growth Fund"), Sentinel Bond Fund, Inc. ("Bond Fund"), and Sentinel Trustees Fund, Inc. ("Trustees Fund") (collectively, "Applicants"), Maryland corporations registered under the Investment Company Act of 1940 ("Act") as open-end, diversified, management investment companies, filed applications on February 1, 1979, pursuant to Section 8(f) of the Act, for orders of the Commission declaring that Applicants have ceased to be investment companies as defined by the Act. All interested persons are referred to the applications on file with the Commission for statements of the representations contained therein, which are summarized below.

Growth Fund states that: (i) on September 2, 1969, it registered under the Act; (ii) on September 1, 1969, it filed a registration statement pursuant to the Securities Act of 1933 ("Securities Act") with respect to 1,000,000 shares of its common stock; and (iii) on September 15, 1969, it commenced a public offering of its shares. Bond Fund states that: (i) on September 2, 1969, it registered under the Act and filed a registration statement pursuant to the Securities Act with respect to 3,000,000 shares of its common stock, and (ii) on September 15, 1969, it commenced a public offering of its shares. Trustees Fund states that: (i) on January 28, 1971, it registered under the Act and filed a registration statement pursuant to the Securities Act with respect to 2,000,000 shares of its common stock, and (ii) on March 16, 1971, it commenced a public offering of its shares.

Applicants state that on November 29, 1977, their boards of directors each approved Agreements and Articles of Merger ("Agreements") between each Applicant and Sentinel Group Funds, Inc. ("Group Funds"), a company registered under the Act as an open-end, diversified, management investment company, which provided for: (i) the merger of each Applicant into Group Funds; (ii) the distribution to each of Applicants' shareholders shares of newly created series of Group Funds, with the same net asset value as the shares each shareholder held in Applicants immediately prior to the merger; and (iii) the subsequent dissolution and deregistration of Applicants. Applicants further state that the Agreements were approved at shareholder meetings of each Applicant held on March 21, 1978, and that the Agreements were filed with the State of Maryland on March 31, 1978. Applicants also state that they and Group Funds filed an application for an order, pursuant to Section 17(b) of the Act, seeking an exemption from the provisions of Section 17(a) of the Act to permit the mergers of Applicants into Group Funds, and that the requested order was granted on March 21, 1978 (Investment Company Act Release No. 10165).

Applicants state that their legal existences terminated upon their

mergers into Group Funds, and that each of their shareholders received a distribution of shares of a series of Group Funds (i) with the same investment objectives as the Applicant whose shares they held, and (ii) with the same net asset value as the shares of Applicants which they held. Applicants further state that they: (1) have not retained any assets; (ii) have no outstanding debts; and (iii) are not parties to any litigation or administrative proceeding.

According to the applications, immediately prior to the merger: (i) Growth Fund had outstanding 1,624,093 shares of its common stock, having an aggregate net asset value of $12,372,120; (ii) Bond Fund had outstanding 742,525 shares of its common stock, having an aggregate net asset value of $5,654,645; and (iii) Trustees Fund had outstanding 1,548,802 shares of its common stock, having an aggregate net asset value of $14,457,066. Applicants state that they are not now engaged, and do not propose to engage, in any business activity other than that necessary to wind up their affairs.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than August 3, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on any or all of these matters accompanied by a statement as to 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 or hearings 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 at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, orders disposing of the applications will be issued as of course following said date unless the Commission thereafter orders a hearing or hearings 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 these matters, including the date of any 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. 79–22074 Filed 7–17–79; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 10774; 812–4487]

Broad Street Investing Corp.; Filing of an Application

July 12, 1979.

In the matter of Broad Street Investing Corporation, One Bankers Trust Plaza, New York, New York 10006.

Notice is hereby given that Board Street Investing Corporation ("Broad Street"), registered under the Investment Company Act of 1940 ("the Act") as an open-end, diversified, management investment company, filed an application on June 6, 1979, and an amendment thereto on June 28, 1979, requesting in order of the Commission, pursuant to Section 6(c) of the Act, exempting from the provisions of Section 22(c) of the Act and Rule 22c–1 thereunder, and Section 22(d) of the Act the proposed exchange of Broad Street Shares, at net asset value without a sales charge and at a price other than the price next determned after receipt of a purchase order, for substantially all of the assets of High Street, Inc. ("High Street"), which Applicant asserts, is an investment company exempt from registration under the Act by reason of Section 3(c)(1) thereof. 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.

Broad Street is a Maryland corporation, and on May 21, 1979, its total net assets were $309,495,311. Applicant represents that High Street is a corporation organized and existing under the laws of Massachuetts and that its stock is held of record and beneficially by twenty persons. Applicant further represents that no affiliation exists between High Street or its officers, directors or Stockholders and Broad Street and its officers or directors.

Applicant states that Broad Street and High Street have entered into an Agreement and Plan of Reorganization ("the Plan") which provides that substantially all of the cash and secruities owned by High Street will be transferred to Broad Street in exchange for shares of its capital stock. Pursuant to the Plan, Broad Street shares having an aggregate net asset value equal to the value of the High Street assets to be acquired shall be issued in exchange therefor. The number of shares of Broad Street to be issued to High Street on the Exchange Date is to be determined by dividing the aggregate market value of the assets of High Street to be transferred to Broad Street by the net asset values per share of Broad Street. The Valuation Date for purposes of determining the net asset value per share of Broad Street and the market value of the assets of High Street to be acquired by Board Street will be the close of business of the New York Stock Exchange on the business day next preceding the exchange date. If the Valuation Date under the Plan had occurred on May 21, 1979, High Street would have received 231,345 shares of Broad Street's capital stock in exchange for substantially all of the assets of High Street, having an aggregate value as of that date of approximately $2,491,586. Broad Street presently intends to sell approximately 39% of the assets to be acquired from High Street within a relatively short period following their acquisition. As of May 21, 1979, the market value of such assets was approximatey $975,663.

The Plan also provides for the retention by High Street of an amount equivalent to less than 5% of its net assets to pay its liabilities, costs of liquidation and dividends to its stockholders equal to its "undistributed personal holding company" income as defined in Section 545 of the Internal Revenue Code of 1954. High Street has advised Applicant, however, that Plan calls for the exchange of 100% of its assets for Applicant's shares, and that within a twelve-month period immediately following the Exchange Date, High Street intends to transfer to Broad Street any balance of the assets retained by High Street. Broad Street shall thereupon issue and deliver to High Street additional Broad Street shares at the net asset value per share next computed after receipt of such assets.

Applicant states that, when received by High Street, the shares of Broad Street are to be distributed to High Street's shareholders in complete liquidation of High Street, in proportion to their respective stock ownership in High Street. However, Applicant has been informed that for tax purposes one-half of such shares will be placed in escrow by High Street for 2 years.

Applicant has been further informed by management of High Street that the shareholders of High Street have no present intention of redeeming or otherwise transferring any of the Broad Street shares so distributed. Applicant believes that expenses and other costs related to the distribution of an equivalent number of its shares in the ordinary course of business substantially exceed the expenses which Applicant may incur in connection with the proposed transaction.

It is a condition to the obligations of High Street and Broad Street under the Plan that, prior to the exchange of High Street's assets for Broad Street's shares, High Street shall have received a ruling of the Internal Revenue Service to the effect that the plan, the acquisition of High Street's assets by Broad Street, the receipt of Broad Street shares in exchange therefore and the distribution of such Broad Street shares to High Street shareholders, will not result in taxable gains either to Broad Street, High Street, or to any of their respective shareholders.

Section 22(c) of the Act, and Rule 22c–1 thereunder, together provide, in part, that a registered investment company may not issue its redeemable securities except at a price based on the current net asset value of such security which is next computed as of the close of trading on the New York Stock Exchange next following receipt of an order to purchase such security.

Section 22(d) of the Act provides, in part, that a registered investment company may sell redeemable securities issued by such company only at the current public offering price described in the prospectus. The current public offering price of the shares of Broad Street as described in its prospectus is net asset value plus a sales charge.

Without an exemption from Sections 22(c) and 22(d) of the Act, and Rule 22c–1 thereunder, Applicant submits that it would be probhibited from (a) exchanging its shares at net asset value without a sales charge for substantially all of the assets of High Street and (b) effecting the proposed exchange transaction on the Exchange Date based on the market value of the assets of High Street to be transferred and net asset value per share of Broad Street, both determined as of the valuation time which is the close of business on the business day next preceding the Exchange Date. It is currently expected that the Valuation Date will be August 6, 1979, and that the actual exchange of Broad Street shares for the assets of High Street will take place on the following business day. Because the Exchange Date and the Valuation Date will be fixed in advance, and in view of the short time span involved, Applicant argues that the possible abuses at which Rule 22c–1 is directed will not exist. Applicant also argues that consummating the proposed transaction in the manner described above will allow both Broad Street and High Street adequate time to complete the necessary preparations for closing the transaction.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provsision under the Act or of any rule or regualtion 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.

Applicant represents that it considers the proposed exchange of shares to be at a fair price, arrived at by arms-length bargaining and believes that granting of the requested exemption from the provisions of Section 22(c), 22c–1 thereunder, and section 22 (d) of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that the proposed acquisition will be beneficial to the shareholders of Broad Street because those expenses of Broad Street which do not rise proportionately with an increase in portfolio size will as a result of the proposed transaction be spread over a larger number of shares. In addition, Applicant states that, even after offsetting brokerage commissions and approximate principal transaction costs involved in disposition of securities which Broad Street does not expect to retain for any significant period after consummation of the proposed transaction, the transfer of portfolio securities to be retained pursuant to the proposed transaction will cause Broad Street less expense than the purchase of securities of the same issuers in the open market. Further, Applicant states that the proposed exchange will enable Broad Street to acquire at one time additional securities for its existing portfolio without affecting the market in such securities.

Notice is further given that any interested person may, not later than August 6, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be 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 the Applicant at the address 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 herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices or 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. 79–22173 Filed 7–17–79; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–5381]

Varo, Inc., Common Stock, Par Value $0.10; Application To Withdraw From Listing and Registration

July 10, 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 Varo, Inc. (the "Company") has been dually listed on the Amex and the New York Stock Exchange, Inc. ("NYSE") since August 23, 1976. On April 12, 1979, the Company's Board of Directors concluded that there was no particular advantage to maintaining the dual listing for its stock and resolved to

withdraw such stock from listing and registration on the Amex.

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 August 10, 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. 79-22174 Filed 7-17-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16019; File No. SR-NYSE-79-21]

New York Stock Exchange, Inc.; Filing and Effectiveness of Proposed Rule Change

July 12, 1979.

The New York Stock Exchange, Inc. ("NYSE") submitted, on May 14, 1979, a proposed rule change under Rule 19b-4 to (1) increase Gratuity Fund death benefits for the families of deceased NYSE members from $20,000 to $100,000 and (2) increase the contributions (*i.e.*, assessments) payable upon the death of a member from $15 to $75 per surviving member in order to finance the increased benefits. The NYSE assets that the prepared is designed to recognize the effects of inflation and to adequately provide for the families of deceased members.[1]

The foregoing rule change effects a change in a due, fee or other charge imposed by the NYSE and has become effective, pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 (the "Act").[2] At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Publication of the submission is expected to be made in the **Federal Register** during the week of July 16, 1979. Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549. Reference should be made to File No. SR-NYSE-79-21.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 522, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-22172 Filed 7-17-79; 8:45 am]

BILLING CODE 8010-01-M

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[1] The NYSE received comment letters, expressing essentially identical views, from the member organizations of Donaldson, Lufkin & Jenrette and Smith Barney, Harris Upham & Co., Inc. They stated that the Gratuity Fund is an anachronism from the era when most NYSE memberships were owned by individuals and when such individuals lacked the advantages of modern group Life insurance; whereas now many NYSE membership are owned by firms, and the firms provide group life insurance for all their employees. The firms also asserted that group insurance programs are available for any NYSE members not covered by employer insurance programs and that the $100,000 of death benefits to be provided by the Gratuity Fund are far more costly in member contributions than are premiums on group life insurance plans providing identical benefits.

[2] As an amendment to the NYSE Constitution, the proposal received the approval of the NYSE Board of Directors and the affirmative vote of the NYSE membership.

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: July 12, 1979.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

Complete Legal Name of Cooperative Association Or Federation Of Cooperative Associations: Agricultural Cooperative, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): 26 Willis Street, Framingham, Massachusetts 01701.
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State, and Zip Code): Rte. 1, Plainfield, Wisconsin 54966.
Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address): Gene S. Bula, President, Rte. 1, Plainfield, Wisc. 54966.
Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: Farmers Union Transport Association.
Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 132, Mandan, ND 58554.
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State, and Zip Code): 807 N. Woodland Dr., Mandan, ND 58554.
Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address): Robert Kottsick, P.O. Box 132 Mandan ND 58554.
Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: Global Distributors, Inc.

Principal Mailing Address (Street No., City, State, and Zip Code): Box 448, 115 N. Main Street, Gloversville, NY 12078.
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State, and Zip Code): Box 448, 115 N. Main Street, Gloversville, NY 12078.
Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address): Vincent Gramuglia, Box 448, 115 N. Main Street, Gloversville, NY 12078.
Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: Indiana Farm Bureau Cooperative Association, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): 120 E. Market Street, Indianapolis, IN 46204.
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State, and Zip Code): 120 E. Market Street, Indianapolis, IN 46204.
Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address): 120 E. Market Street, Indianapolis, IN 46204.
Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: Mid-America Farm Lines, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): 420 N. Nettleton, Springfield, MO 65805.
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State, and Zip Code): 420 N. Nettleton, Springfield, MO 65805.
Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address): Gary Hanman, 800 W. Tampa, Springfield, MO 65805.
Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: Northwest Agricultural Cooperative Association, Inc. (NACA, Inc.).
Principal Mailing Address (Street No., City, State, and Zip Code): 125 S. Oregon Street, Ontario, Oregon 97914.
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State, and Zip Code): 125 S. Oregon Street, Ontario, Oregon 97914.
Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address): Ted Hoots, P.O. Box 1, Ontario, Oregon 97914.
Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: Special Freight Systems, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 366, Highway 17 South, Wauchula, Florida 33873.
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State, and Zip Code): 1301 N. Broad Street, Woodbury, N.J. 08096.
Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address): Daniel Latta & Sons, Inc., 1301 N. Broad Street, Woodbury, N.J. 08096.
Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations: Tennessee Farmers Cooperative.
Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 157, LaVergne, TN 37086.
Where Are Records Of Your Motor Transportation Maintained (Street No., City, State, and Zip Code): P.O. Box 157, LaVergne, TN 37086.
Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address): Joe L. Wright, P.O. Box 157, LaVergne, TN 37086.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-22118 Filed 7-17-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 109]

Assignment of Hearings

July 12, 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 Offical 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 118159 (Sub-283F), National Refrigerated Transport, Inc., now assigned for hearing on July 31, 1979 (1 day), at Chicago, IL, is canceled.
MC 134906, Cape Air Freight, Incorporated, MC 134906 (Sub-1, 2, 3, 4, 5, 6 and 7), Cape Air Freight Incorporated, now assigned for hearing on August 1, 1979 at Louisville, KY, and will be held in Room 1052A, Federal Building, Federal Plaza.
MC 134906, Cape Air Freight, Incorporated, MC 134906 (Sub-1, 2, 3, 4, 5, 6 and 7), Cape Air Freight Incorporated, now assigned for continued hearing on August 6, 1979 at Chicago, IL, and will be held in Room 1052A, Federal Building, Federal Plaza.
MC 119741 (Sub-131F), Green Field Transport Company, Inc., now assigned for hearing on July 23, 1979 at Chicago, IL, is postponed indefinitely.
MC 82492 (Sub-220F), Michigan & Nebraska Transit Co., Inc., now being assigned for hearing on October 15, 1979 (1 week), at Chicago, IL, in a hearing room to be designated later.
MC 133841 (Sub-7F), Dan Barclay, Inc., now being assigned for hearing on September 17, 1979 (1 day), at New York, NY, in a hearing room to be designated later.
MC 139482 (Sub-95F), New Ulm Freight Lines, Inc., now being assigned for hearing on September 18, 1979 (1 day), at New York, NY, in a hearing room to be designated later.
MC 110563 (Sub-251F), Coldway Food Express, Inc., now being assigned for hearing on September 19, 1979 (3 days), at New York, NY, in a hearing room to be designated later.
MC 145638 F, Roger Stockwell, d.b.a. Immediate Delivery Service Co. now being assigned for hearing on September 11, 1979 (1 day), at Boston, MA, in a hearing room to be designated later.
MC 112963 (Sub-82F), Roy Bros., Inc., now being assigned for hearing on September 12, 1979 (3 days), at Boston, MA, in a hearing room to be designated later.
MC 34485 (Sub-3F), Clark & Reid Company, Inc., now being assigned for hearing on September 17, 1979 (1 week), at Boston, MA, in a hearing room to be designated later.
MC 115841 (Sub-655F), Colonial Refrigerated Transportation, Inc., now assigned for hearing on September 17, 1979 (1 week), at Los Angeles, in a hearing room to be later designated.
MC 134182 (Sub-35F), Allied Transportation Service, Inc., now assigned for hearing September 10, 1979 (2 days), at Philadelphia, PA, in a hearing room to be later designated.
MC 124423 (Sub-7F), Jet Messenger Service, Inc., now assigned for hearing on September 12, 1979 (3 days), at Philadelphia, PA, in a hearing room to be later designated.
MC 139482 (Sub-73F), New Ulm Freight Lines, Inc., now assigned for hearing on September 10, 1979 (2 days), at New York, NY, in a hearing room to be later designated.
MC 107583 (Sub-60F), Salem Transportation Co., Inc., now assigned for hearing on September 12, 1979 (3 days), at New York, NY, in a hearing room to be later designated.
MC 115826 (Sub-359F), W. J. Digby, Inc., transfer to modified procedures.
MC 8472 (Sub-7F), South End Cartage, now assigned for hearing July 24, 1979 at Chicago, IL, canceled transfer to modified procedures.
MC 133689 (Sub-236), Overland Express, Inc., now assigned for hearing July 16, 1979 at Chicago, IL, is canceled transferred to modified procedures.
MC 4966 (Sub-22F), Jones Transfer Company, transfer to modifed procedures.
MC 104656 (Sub-14F), Mandrell Motor Coach, Inc., now assigned for hearing July 25-27, 1979 at Easton, MD, is canceled, transfered to modified procedures.
MC 55896 (Sub-104F), R-W Service System, Inc., now being assigned for hearing on October 9, 1979 (1 day), at Chicago, IL, in a hearing room to be designated later.
MC 51146 (Sub-669F), Schneider Transport, Inc., now being assigned for hearing on October 10, 1979 (1 day), at Chicago, IL, in a hearing room to be designated later.
MC 133655 (Sub-141F), Trans-National Truck, Inc., now being assigned for hearing on October 11, 1979 (1 day), at Chicago, IL, in a hearing room to be designated later.

MC 69116 (Sub-214F), Spector Industries, Inc., d.b.a. Spector Freight System, now being assigned for hearing on October 12, 1979 (1 day), at Chicago, IL, in a hearing room to be designated later.

MC 107445 (Sub-20F), Underwood Machinery Transport, Inc., now being assigned for hearing on October 15, 1979 (1 week), at Chicago, IL, in a hearing room to be designated later.

MC 117574 (Sub-319F), Daily Express, Inc., now being assigned for hearing on October 9, 1979 (1 day), at Chicago, IL, in a hearing room to be designated later.

MC 115557 (Sub-19F), Charles A. McCauley, now being assigned for hearing on October 10, 1979 (1 day), at Chicago, IL, in a hearing room to be designated later.

MC 22182 (Sub-34F), Nu-Car Carriers, Inc., now being assigned for hearing on October 11, 1979 (2 days), at Chicago, IL, in a hearing room to be designated later.

MC-FC 77634, A M & M, Incorporated Henderson, TN, Transferee and Record Truck Line, Inc. Jackson, TN Tranfer, MC 133220 (Sub-12F), A M & M Incorporated (Reentitled), MC 133220 (Sub-13F), A M & M Incorporated (Reentitled), now assigned for hearing on September 11, 1979 at the Offices of the Interstate Commerce Commission, Washington, DC.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-22119 Filed 7-17-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 74]

Decison-Notice

Decided: June 1, 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 were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or 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 to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.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 present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before August 17, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a noncomplying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton and Liberman.

MC 64600 (Sub-50F), filed March 6, 1979. Applicant: WILSON TRUCKING CORPORATION, P.O. Drawer 2, Fishersville, VA 22939. Representative: William J. Jones (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as

defined by the Commission, commodities in bulk, and those requiring special equipment), between Greensboro, NC and Columbia, SC, from Greensboro over U.S. Hwy 29 to Charlotte, NC, then over U.S. Hwy 21 to Columbia, and return over the same route, serving all intermediate points and the off-route points of Winston-Salem, NC and Gaston and Lexington, SC. (Hearing site: Charlotte or Greensboro, NC.)

MC 111201 (Sub-40F), filed March 1, 1979. Applicant: J. N. ZELLNER & SON TRANSFER COMPANY, a corporation, P.O. Box 91247, East Point, GA 30364. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers, container ends, and container closures*, and (2) *such commodities* as are dealt in by manufacturers and distributors of containers, in mixed loads with containers (except commodities in bulk, in tank vehicles, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles), between those points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Brockway Glass Company, Inc. (Hearing site: Atlanta, GA.)

MC 115841 (Sub-687F), filed March 6, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *brass articles, bronze articles, copper articles, and steel articles*, from the facilities of The Ceco Corporation, at or near Milan, TN, to points in AL, FL, GA, LA, MS, NC, SC, and TN. (Hearing site: Nashville, TN, or Washington, DC.)

MC 115841 (Sub-688F), filed March 6, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Dr., Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bananas*, and (2) *agricultural commodities*, the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. Section 10526(a)(6) [formerly section 203(b)(6)] of the Interstate Commerce Act, in mixed loads with bananas, from Charleston, SC and Tampa, FL, to points in MD, VA, WV, and DC. (Hearing site: Miami, FL, or Washington, DC.)

MC 119641 (Sub-159F), filed March 7, 1979. Applicant: RINGLE EXPRESS, INC., 450 East Ninth St., Fowler, IN 47944. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *motor graders*, and (2) *parts, attachments, and accessories* for motor graders, from points in Lexington County, SC, to points in IA, IL, IN, KS, KY, MI, MN, MO, NE, ND, NY, OH, PA, SD, WV, and WI. (Hearing site: Indianapolis, IN, or Chicago, IL.)

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed.

Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

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 precedures 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 protests, filed on or before August 17, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

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 Number 2, Members Boyle, Eaton and Liberman.

H. G. Homme, Jr.

Secretary.

MC 19311 (Sub-56F), filed January 8, 1979, previously noticed in the **Federal Register** issue of March 27, 1979. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Walter N. Bieneman, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, MI 48033. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of the Ford Motor Company, and Hessco Corporation, at or near Louisville, KY, as off-route points in connection with carrier's otherwise authorized regular-route operations. (Hearing Site: Detroit or Lansing, MI.)

Note.—This republication states the correct territorial description.

MC 124711 (Sub-70F), filed November 13, 1978, previously noticed in the **Federal Register** issue of February 1, 1979. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: Norman A. Cooper (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sulphuric acid*, in bulk, in tank vehicles, from Tulsa, OK, to points in KS, NE, TX, AR, LA, IA, and MO. (Hearing Site: Tulsa, OK, or Kansas City, MO.)

Note.—This republication includes the destination points of IA and MO.

[FR Doc. 79-22120 Filed 7-17-79; 8:45 am]

BILLING CODE 7035-01-M

[Decision-Notice 102]

Permanent Authority Decisions

Decided: June 15, 1979

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR §1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

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.

We Find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the 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 absense 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 protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant of 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 Number 2, Members, Liberman, Eaton, and Boyle.

H. G. Homme, Jr.,

Secretary.

MC 108473 (Sub-44F), filed January 22, 1979, and previously published in the **Federal Register** on March 29, 1979, as MC 108743 Sub 44F. Applicant: ST. JOHNSBURY TRUCKING COMPANY, INC., 87 Jeffrey Avenue, Holliston, MA 01746. Representative: Francis P. Barrett, 60 Adams Street, P.O. Box 238, Milton, MA 02187. The scope of this application remains as previously published. The purpose of this republication is to correctly identify the application as MC 108473 Sub 44F.

MC 114552 (Sub-195F), filed January 10, 1979, and previously published in the **Federal Register** on March 1, 1979. Applicant: SENN TRUCKING COMPANY, a Corporation, Post Office Drawer 220, Newberry, SC 29108. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Post Office Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, tranporting (1) *construction materials* (except commodities in bulk), from the facilities of The Celotex Corporation, at or near Lagro, IN, to points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, DE, MD, VA, WV, NC, SC, GA, FL, AL, MS, LA, TX, AR, TN, KY, OH, IN, IL, MI, and DC; and (2) *materials, supplies, and equipment* used in the manufacture and distribution of construction materials (except commodities in bulk), from the destination points named in (1) above, to the origin facilities in (1) above. (Hearing site: Tampa, FL, or Washington, DC.)

Note.—The purpose of this republication is to correctly identify the facilities at Lagro, IN, in lieu of Largo, IN, and to clarify part (2).

MC 128473 (Sub-21F) (correction), filed February 13, 1979, published in the **Federal Register**, issue of May 1, 1979, and republished, as corrected, this issue. Applicant: MONTANA EXPRESS, INC., P.O. Box 3346, Butte, MT 59701. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Los Angeles, and Ontario, CA, to points in AZ, ID, MT, NV, OR, UT, WA and WY, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc., under continuing contract(s) with Kraft, Inc., of Chicago, IL. (Hearing site: Los Angeles, CA, or Phoenix, AZ.) The purpose of this republication is to add the origin point of Ontario, CA, inadvertently omitted; to correct the operation to that of a *contract* carrier, in lieu of common carrier, as stated in the **Federal Register**, issue of May 1, 1979; and to modify the commodity description.

MC 145743 (Sub-3F), filed November 29, 1978, and previously published in the **Federal Register** on February 1, 1979. Applicant: TFS, INC., Box 126, RR 2, Grand Island, NE 68801. Representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *frozen onion products and frozen mushrooms*, and (2) *materials, equipment, and supplies* used in the manufacture, and distribution of the commodities in (1) above, between the facilities of Delicious Foods Co., at or near Grand Island, Hastings, and Lincoln, NE, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the above-named facilities. (Hearing site: Grand Island or Lincoln, NE.)

Notes.—(1) Dual operations may be involved. (2) The purpose of this republication is to add Hastings and Lincoln, NE, as locations named facilities.

MC 146442F, filed February 22, 1979. Applicant: CLEARFIELD TRANSPORTATION CO., INC., P.O. Box 313, Clinton, MO 64735. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cheese, cheese products, and pasteurized process cheese product substitutes*, between points in the United States (except AK and HI), and (2)(a) *ingredients and additives* for the commodities in (1) above, (b) *cleaning compounds, salt, corn meal, mush, oleomargarine, salad dressing, fish bait, butter*, and (c) commodities otherwise exempt from economic regulation under 49 U.S.C. 10526 (a)(6), when moving in the same vehicle with the commodities in (1), and (2) (a) and (b) above, and (d) *materials, equipment, and supplies used in the manufacture*, development, packaging, and distribution of the commodities in (1) above, between Los Angeles and San Francisco, CA, New Haven, CT, Atlanta, GA, Charlestown, MA, Clinton, MO, Portland, OR, Cuba and Skaneateles, NY, Curwensville, Harrisburg, and Philadelphia, PA, San Antonio, TX, Logan and Wellsville, UT, Seattle, WA, Green Bay, Muscoda, Portage, and Wausau, WI, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Clearfield Cheese Company, Inc., of Curwensville, PA. (Hearing site: Washington, DC or Philadelphia, PA)

[FR Doc. 79-22121 Filed 7-17-79; 8:45 am]

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[Volume No. 77]

Permanent Authority Decisions; Decision-Notice

Decided: June 4, 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 were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or

business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or 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 to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.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 present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before August 17, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

H. G. Homme, Jr.,

Secretary.

MC 200 (Sub-339F), filed March 5, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Chicago, IL, to points in TX, OH, and MI. (Hearing Site: Kansas City, MO.)

MC 531 (Sub-377F), filed March 8, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry polyvinyl chloride resins*, in bulk, in tank vehicles, from Freeport and Houston, TX, to points in IN, IL, MO, AR, LA, MS, KY, SC, FL, NY, and IA. (Hearing Site: Dallas, TX.)

MC 2421 (Sub-21F), filed March 8, 1979. Applicant: NEWTON TRANSPORTATION, INC., P.O. Box 678, Lenoir, NC 28645. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th Sts., NW., Washington, DC 20004. 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 Broyhill Furniture Industries, Inc., at or near Rutherfordton, NC, to points in PA. (Hearing Site: Charlotte, NC.)

MC 2900 (Sub-355F), filed January 11, 1979, previously noticed in the **Federal Register** issue of April 30, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over 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), (2) Between Little Rock, AR, and Tallulah, LA, over U.S. Hwy 65, serving all intermediate points. (Hearing Site: Dallas or Houston, TX.)

Note.—This partial republication states the correct territory in part (2). The remainder of this publication remains as previously published.

MC 5470 (Sub-175F), filed March 8, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th Street, N.W., Washington DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pig iron*, in dump vehicles, from Albany, NY, to points in CT, DE, ME, MA, NH, NJ, RI, and VT. (Hearing Site: Washington, DC, or Buffalo, NY.)

MC 5470 (Sub-176F), filed March 8, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th Street, N.W., Washington DC 20006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lime, limestone, and limestone products*, in dump vehicles, from Millersville, OH, to

points in IN and PA. (Hearing Site: Washington, DC, or Philadelphia, PA.)

MC 6801 (Sub-10F), filed March 8, 1979. Applicant: G. H. HARNUM, INC., 867 Woburn Street, Wilmington, MA 01887. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *heating, cooling, and freezing apparatus;* and (2) *equipment, materials, and supplies* used in the installation and manufacture of the commodities named in (1) above, (except commodities in bulk), between Billerica and Wilmington, MA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing Site: Boston, MA.)

MC 27580 (Sub-7F), filed March 5, 1979. Applicant: JOSEPH CORY DELIVERY SERVICE, INC., 21 West Street, New York, NY 10006. Representative: Morton E. Kiel, Suite 6193, 5 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 *uncrated furniture*, between Jersey City, NJ, on the one hand, and, on the other, those points in MA on and east of MA Hwy 12 and points in RI. (Hearing Site: New York, NY.)

MC 28060 (Sub-51F), filed March 5, 1979. Applicant: WILLERS, INC., d.b.a., WILLERS TRUCK SERVICE, 1400 North Cliff Avenue, Sioux Falls, SD 57101. Representative: Richard M. Tettelbaum, Fifth Floor—Lenox Towers South, 3390 Peachtree Road, Atlanta, GA 30326. 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 commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in IA, MO, and NE to the facilities of Multi-Sales, Inc., at or near Minneapolis, MN. (Hearing Site: Sioux Falls, SD.)

MC 35320 (Sub-236F), filed March 2, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition and component parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Sangamo Capacitor Division, at or near Pickens, SC, an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing Site: Atlanta, GA, or Washington, DC)

MC 35320 (Sub-237F), filed March 2, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition and component parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Pep Industries, at or near Ripley and Houston, MS, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing Site: Memphis, TN, or Washington, DC)

MC 35320 (Sub-238F), filed March 2, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition and component parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Westinghouse Electric Corporation, at or near Bloomington, IN, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing Site: Louisville, KY, or Washington, DC)

MC 48441 (Sub-36F), filed March 2, 1979. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001.To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *materials and supplies* used in the packaging and distribution of glass containers, (except commodities in bulk), from St. Louis, MO, Milkwaukee, WI, and points in IN to the facilities of Thatcher Glass Manufacturing Co., Division of Dart Industries, at Streator, IL, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing Site: Chicago, IL.)

MC 61231 (Sub-138F), filed March 1, 1979. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC.,P.O. Box 1351, Des Moines, IA 50309. 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 regular routes, transporting *lumber, lumber products, and particleboard*, from points in NM to points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, and WI. (Hearing Site: Albuquerque, NM.)

MC 61231 (Sub-140F), filed March 9, 1979. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50309. 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 *lead, lead alloys, scrap batteries, scrap metals, nonferrous metals, residues and smelter by-products*, between the facilities of Gould Inc., Metals Division, at Frisco, TX, and Omaha, NE, on the one hand, and, on the other, points in AZ, AR, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX, WA, WI, and WY. (Hearing site: St. Paul, MN.)

MC 69281 (Sub-50F), filed March 13, 1979. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., a corporation, 698 Fairmount Avenue, Towson Plaza, Baltimore, MD 21204. Representative: Henry J. Bouchat, P.O. Box 58, Baltimore, MD 21203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Dunkirk, MD, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Washington, DC.)

MC 108341 (Sub-136F), filed March 8, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Morton E. Kiel, Suite 6193, 5 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) *iron and steel articles, railway track material, railing, pipe, piling, and pile-driving equipment;* (2) *parts, attachments, and accessories* for the commodities named in (1) above; and (3) *material, equipment, and supplies* used in the manufacture, installation, dismantling , or distribution of the commodities named in (1) and (2) above (except commodities in bulk), between the facilities of L. B. Foster Company at or near Parkersburg and Washington, WV, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, and VA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 108341 (Sub-137F), filed March 1, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Morton E. Kiel, Suite 6193, 5 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) *copper rods,* from the facilities of Westinghouse Electric Corporation, at or near Abingdon, VA, to the facilities of The Anaconda Company, at or near Watkinsville, GA, Sycamore, IL, Marion, IN, La Grange, KY, Muskegon, MI, and Eden and Tarboro, NC; and (2) *copper cable and wire and aluminum cable and wire,* (a) from the facilities of The Anaconda Company, at or near Marion, IN, and Sycamore, IL, to those points in the United States in and east of OH, KY, TN, and AL, and (b) from the facilities of The Anaconda Company, at or near Eden and Tarboro, NC, and Watkinsville, GA, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: New York, NY, or Washington, DC.)

MC 108651 (Sub-23F), filed March 9, 1979. Applicant: ROY B. MOORE, INC., P.O. Box 628, Kingsport, TN 37662. Representative: Daniel H. Moore (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods,* from Lincolnton, NC, to those points in TN on and east of U.S. Hwy 27. (Hearing site: Kingsport, TN, or Washington, DC.)

MC 109821 (Sub-59F), filed March 2, 1979. Applicant: TAYNTON FREIGHT SYSTEM, INC., 40 Main Street, Wellsboro, PA 16901. Representative: Dewey T. Whitford (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers, container ends and closures,* (2) *commodities* manufactured or distributed by manufacturers and distributors of containers when transported in mixed loads with containers, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of containers, container ends, and closures, (except commodities in bulk), between points in CT, DE, IN, KY, MD, MA, NJ, NY, OH, PA, RI, VA, WV, and DC, restricted to the transportation of traffic originating at or destined to the facilities of the Brockway Glass Company, Inc. (Hearing Site: Pittsburgh, PA, or Washington, DC.)

MC 110420 (Sub-804F), filed March 5, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW, Washington, DC 20004. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tanning extracts and liquid chemicals,* in bulk, in tank vehicles, from Andover and Peabody, MA, to points in IL and WI. (Hearing Site: Chicago, IL, or Washington, DC.)

MC 115311 (Sub-321F), filed March 5, 1979. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, GA 31061. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree Street, NE, Atlanta, GA 30303. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement and lime,* from Ragland, AL, to points in Gwinnett, DeKalb, Fulton, Clayton, and Cobb Counties, GA. (Hearing Site: Atlanta, GA.)

MC 117730 (Sub-44F), filed March 9, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, 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) *iron and steel articles,* from West Butler and West Leechburg, PA, Massillon, OH, and Wallingford, CT, to the facilities of United Industries, Inc., at Beloit, WI; and (2) *aluminum,* from Lancaster, PA, to the facilities of United Industries, Inc., at Beloit, WI. (Hearing Site: Chicago, IL.)

MC 117940 (Sub-313F), filed March 8, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of American Home Foods, Division of American Home Products Corporation, at or near La Porte, IN, to points in KS, MO, and NE, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing Site: Chicago, IL.)

MC 117940 (Sub-315F), filed March 2, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods,* from Pickett, WI, to points in KS, MI, MO, OH, and PA, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Indianapolis or Fort Wayne, IN.)

MC 118130 (Sub-105F), filed March 8, 1979. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Forth Worth, TX 76102. Representative: Billy R. Reid, P.O. Box 8335, Forth Worth, TX 76112. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plumbing or bathroom fixtures;* and (2) *materials, equipment, and supplies* used in the manufacture of plumbing or bathroom fixtures (except commodities in bulk, in tank vehicles), between the facilities of Universal-Rundle Corporation, at or near Union Point and Monroe, GA, Corsicana and Hondo, TX, Ottumwa, IA, Phoenix, AZ, and Redlands, CA, on the one hand, and, on the other, points in AL, AZ, CA, CO, FL, GA, IA, ID, KS, LA, MN, MO, MT, MS, NC, ND, NE, NV, NM, OK, OR, SC, SD, TN, TX, UT, WA, and WY. (Hearing site: Dallas, TX.)

MC 119741 (Sub-152F), filed March 8, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *mill work,* from the facilities of Caradco Window & Door, Division of Scobill Mfg. Co., at Rantoul, IL, to points in the United States (except AK and HI), restricted to the transportation of traffic orginating at the named origin and destined to the

indicated destinations. (Hearing site: Chicago, IL.)

MC 123061 (Sub-113F), filed March 1, 1979. Applicant: LEATHAM BROTHERS INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representation: Harry D. Pugsley, 1283 E. South Temple #501, Salt Lake City, UT 84102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soda ash*, bagged or bulk, from points in Sweetwater County, WY, to points in OR, WA, ID, MT, and CA. (Hearing site: Portland, OR, or Salt Lake City, UT.)

MC 123061 (Sub-117F), filed March 1, 1979. Applicant: LEATHAM BROTHERS INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representation: Harry D. Pugsley, 1283 E. South Temple #501, Salt Lake City, UT 84102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bentonite clay*, bagged or bulk, from Nyssa, OR, to points in WA, OR, and ID. (Hearing site: Portland, OR, or Salt Lake City, UT.)

MC 123061 (Sub-118F), filed March 1, 1979. Applicant: LEATHAM BROTHERS INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283 E. South Temple #501, Salt Lake City, UT 84102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dolomite lime*, from Salinas and Natividad, CA, to points in OR, WA, and ID. (Hearing Site: Portland, OR, or Salt Lake City, UT.)

MC 123061 (Sub-121F), filed March 8, 1979. Applicant: LEATHAM BROTHERS INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283 E. South Temple #501, Salt Lake City, UT 84102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chicken fertilizer*, from Livingston, CA, to points in OR, WA, ID, UT, and CO. (Hearing Site: San Francisco, CA, or Salt Lake City, UT.)

MC 124151, (Sub-11F), filed March 9, 1979. Applicant: VANGUARD TRANSPORTATION, INC., Lafayette Street, Carteret, New Jersey 07008. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tetramethlammonium hydroxide, in methanol*, and *indene in toluene*, in containers, from Danville, Pa., to New York, NY, and empty containers on return. (Hearing site: Washington, D.C. or New York, New York.)

MC 124221 (Sub-68F), filed March 9, 1979. Applicant: HOWARD BAER, P.O. Box 27, Morton, IL 61550. Representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *peanut products*, from Albany, GA, to Los Angeles, CA, under continuing contract(s) with The Kroger Co., of Cincinnati, OH. (Hearing Site: Washington, D.C.)

MC 124711 (Sub-84F), filed March 5, 1979. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: Norman A. Cooper (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum lubricating oil and grease*, in bulk, from Kansas City, KS, to points in UT and WY. (Hearing Site: Kansas City or Wichita, KS.)

MC 128220 (Sub-26F), filed March 8, 1979. Applicant: RALPH LATHAM, d.b.a. LATHAM TRUCKING COMPANY, P.O. Box 596, Burnside, KY 42519. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *extruded vinyl or plastic siding, clapboard siding, plastic articles, paper articles, and building materials;* and (2) *accessories and supplies* used in connection with the commodities named in (1) above, (except commodities in bulk), from the facilities of Bird & Son, Inc., at Bardstown, KY, to points in AZ, CA, CO, CT, DE, ID, IL, IN, IA, KS, ME, MD, MA, MI, MS, NE, NH, NJ, NY, OH, OR, PA, UT, VT, WA, WV, WI, and DC. (Hearing Site: Louisville, KY.)

MC 129790 (Sub-9F), filed March 8, 1979. Applicant: JOSEPH A. BECKER, d.b.a. BECKER HI-WAY FRATE, 121 Adams Avenue, Albert Lea, MN 56007. Representative: Andrew R. Clark, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *egg cartons, dishes, trays, and boxes*, from Natchez, MS, Middleton and Dayton, OH, to points in MO, IA, NE, MN, WI, IL, IN, OH, KY, MI, and KS, under continuing contract(s) with Diamond National Corporation, of New York, NY. (Hearing Site: New York, NY.)

MC 129790 (Sub-10F), filed March 8, 1979. Applicant: JOSEPH A. BECKER, d.b.a. BECKER HI-WAY FRATE, Route 5, Box 10B, Albert Lea, MN 56007. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs, grill brick, and filter screens;* (2) *packaging materials and supplies;* and (3) *such commodities* as are used in the manufacture of the commodities named in (1) above, between Albert Lea, MN, on the one hand, and, on the other, those points in IL on and north of U.S. Hwy 36, and points in AL, GA, IN, LA, MO, MS, and WI, under continuing contract(s) with Miami Margarine Co., of Cincinnati, OH. (Hearing Site: Minneapolis, MN.)

MC 134501 (Sub-46F), filed February 12, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *new furniture*, from points in IA, to those points in AR on and north of Interstate Hwy 40, points in Cocke, Hamblin, and Knox Counties, TN, and points in CT, DE, IL, IN, KY, ME, MD, MA, MI, MN, MT, NH, NJ, NY, ND, OH, PA, RI, SD, VT, VA, WA, WV, WI, and DC; and (2) *new fixtures*, from points in IA, to points in the United States (except AK and HI). (Hearing Site: Des Moines, IA, or Dallas, TX.)

MC 135070 (Sub-33F), filed March 5, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501.To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bicycles, tricycles, and accessories, parts, materials, equipment, and supplies* used in the manufacture and distribution of bicycles and tricycles, between Ponca City, OK, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing Site: Dayton, OH, or Amarillo, TX.)

MC 135070 (Sub-34F), filed March 8, 1979. Applicant: JAY LINES, INC., P.O. Box 30108, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting

confectionery, from the facilities of E. J. Brach & Sons, at or near Chicago, IL, to points in MD, NJ, NM, NY, OK, PA, TX, and VA. (Hearing site: Chicago, IL, or Lincoln, NE.)

Note.—Dual operations may be involved.

MC 135070 (Sub-35F), filed March 8, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meats products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of HyPlains Dressed Beef Company, at or near Dodge City, KS, to points in the United States (except AK and HI). (Hearing site: Amarillo, TX, or Lincoln, NE.)

Note.—Dual operations may be involved.

MC 135410 (Sub-52F), filed March 8, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. 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 Wilson Foods Corporation, at Cedar Rapids and Des Moines, IA, to points in KY, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 136511 (Sub-30F), filed March 1, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24502. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by wholesale, retail, chains, discount and variety stores, from the facilities of General Home Products Corporation, at Edgewater and Pennsauken, NJ, to points in AL, AZ, AR, CA, CO, FL, GA, KS, KY, LA, MS, MO, NC, OK, OR, SC, TN, TX, VA, WA, and WV. (Hearing site: Philadephia, PA.)

MC 138420 (Sub-30F), filed March 8, 1979. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, WI 53063. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages, empty containers, wooden pallets, corrugated carboard separators, load locks and bracing devices*, between St. Louis, MO and Columbus, OH, restricted to the transportation of traffic originating at and destined to the facilities of Anheuser-Busch, Inc. (Hearing site: St. Louis, MO, or Madison, WI.)

MC 138420 (Sub-31F), filed March 8, 1979. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., Route 1, P.O. Box 147, Cleveland, WI 53063. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs and materials, equipment, and supplies* used in the manufacture, and distribution of foodstuffs (except commodities in bulk), between points in WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing Site: Madison or Milwaukee, WI.

MC 139391 (Sub-8F), filed March 2, 1979. Applicant: G & H TRANSPORTATION CO., INC., P.O. Box 157, Widener, AR 72394. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are manufactured, processed or dealt in by manufacturers of glass, plastic, chinaware, and metal products (except commodities in bulk), between the facilities of Anchor Hocking Corporation, at points in IN, OH, PA, and WV, on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, KS, MT, NV, NM, OK, OR, TX, UT, WA, and WY, under continuing contract(s) with Anchor Hocking Corporation, of Lancaster, OH. (Hearing Site: Columbus, OH or Washington, DC.)

MC 139420 (Sub-46F), filed March 1, 1979. Applicant: GLACIER TRANSPORT, INC., Box 428, Grand Forks, ND 58201. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Grand Forks, ND 58107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *grain flour and cereal*, from the facilities of Roman Meal Company at or near Fargo, ND, to points in AZ, CA, CO, LA, MT, NV, NM, OR, TX, UT, and WA; and (2) *knocked-down corrugated cartons*, from Tacoma, WA, to Fargo, ND. (Hearing Site: Fargo, ND.)

MC 140241 (Sub-43F), filed March 7, 1979. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Chicago, IL, to points in Harvey County, KS and Rogers County, OK.(Hearing Site: Wichita, KS, or Kansas City, MO.)

MC 140241 (Sub-44F), filed March 5, 1979. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *used crossties*, between points in AL, AZ, AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NM, ND, OH, OK, SD, TN, TX, WI, and WY. (Hearing Site: Tulsa, OK.)

MC 140241 (Sub-46F), filed March 5, 1979. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Jewett, TX, to points in AZ, AR, CA, CO, ID, IL, IA, KS, LA, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY. (Hearing Site: Dallas, TX, or Wichita, KS.)

MC 140511 (Sub-9F), filed March 8, 1979. Applicant: AUTOLOG CORPORATION, 319 West 101 Street, New York, NY 10025. Representative: Larsh B. Mewhinney, 555 Madison Avenue, New York, NY 10022. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new motor vehicles*, in truckaway service, in secondary movements, between points in FL, on the one hand, and, on the other, points in CT, DE, IL, MA, MD, MI, NJ, NY, OH, PA, RI, WI, and VA. (Hearing Site: New York, NY.)

MC 142941 (Sub-41F), filed February 21, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 North 25th Avenue, Phoenix, AZ 85009. Representative: Lewis P. Ames, 111 West Monroe, 10th Floor,.Phoenix, AZ 85003. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages and related advertising materials*, from points in Jefferson County, CO, to points in AZ, CA, NV, and NM; and (2) *empty used beverage containers and materials and supplies* used in and dealt with by breweries, in the reverse direction. (Hearing Site: Denver, CO, or Phoenix, AZ.)

MC 143471 (Sub-12F), filed February 14, 1979. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 301 Mt. Rushmore Road, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber products*, from Grangeville, ID, and Townsend, MT, to points in IL, IA, MN, NE, ND, SD, WI, and WY, under continuing contract(s) with Wickes Forest Industries, a division of the Wickes Corporation, of Grangeville, ID. (Hearing Site: Rapid City or Pierre, SD.)

Note.—Dual operations may be involved.

MC 143501 (Sub-1F), filed March 1, 1979. Applicant: R.G.C. CARGO CARRIERS, INC., P.O. Box 523, South Holland, IL 60473. Representative: James E. Savitz, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from Sparks, NV, to Thornton, IL, under continuing contract(s) with Specialty Brands, Inc. of South San Francisco, CA. (Hearing Site: San Francisco, CA.)

MC 143510 (Sub-2F), filed March 1, 1979. Applicant: AARON SMITH TRUCKING COMPANY, INC., US #117 South, Dudley, NC 28333. Representative: John N. Fountain, Post Office Box 2246, Raleigh, NC 27602. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *prefabricated wood and metal utility buildings* and (2) *accessories* for the commodities named in (1) above, from Lake City, SC and Goldsboro, NC, to points in FL, GA, NC, SC, and VA, under continuing contract(s) with Gas-Fired Products, Inc., of Charlotte, NC. (Hearing Site: Raleigh, NC.)

MC 143691(Sub-21F), filed March 5, 1979. Applicant: PONY EXPRESS COURIER 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 *such commercial papers, documents, and written instruments* as are used in the business of banks and baking institutions (except currency and negotiable securities), (1) between those points in KY in and west of Oldham, Shelby, Spencer, Nelson, Washington, Marion, Taylor, Adair, and Cumberland Counties, KY, on the one hand, and, on the other, points in Sullivan Greene, Monroe, Brown, Bartholemew, Jennings Ripley, Dearborn, Switzerland, Jefferson, Jackson, Lawrence, Martin, Daviess, Knox, Gibson, Pike, Dubois, Orange, Washington, Scott, Clark Floyd, Harrison, Crawford, Perry, Spencer, Warrick, Vanderburg, and Posey Counties, IN, and (2) between Louisville and Owensboro, KY, on the one hand, and, on the other, points in KY, under continuing contract(s) with banks, banking institutions, and data processing centers. (Hearing Site: Louisville, KY.)

Note.—Dual operations may be involved.

MC 143891(Sub-4F), filed March 7, 1979. Applicant: FLYING L TRUCKING CO., 1350 W. Potrero Road, Thousand Oaks, CA 91360. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pet food* (except in bulk), (1) from Perham, MN, to points in AL, CO, FL, IL, LA, MA, MD, MO, NJ, NY, OH, OK, OR, TX, UT, WA, and WV, and (2) from Muscatine, IA, to points in OR, UT, and WA. (Hearing Site: Los Angeles, CA.)

MC 144191(Sub-5F), filed March 7, 1979. Applicant: ELAINE MOON SIGNS, INC., d.b.a., CLASSIC VANS OF VIRGINIA, P.O. Box 2471, West Springfield, VA 22152. Representative: John M. Ballenger, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic sheeting and chemicals* (except commodities in bulk), between Vienna, VA, and points in FL, under continuing contract(s) with Thiokol Dynachem, of Tustin, CA. (Hearing Site: Washington, DC.)

MC 145311 (Sub-2F), filed March 9, 1979. Applicant: ROADRUNNER TRANSPORTATION, INC., 8406 Mosley Road, Houston, TX 77075. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commodities*, the transportation of which, because of size or weight, require the use of special equipment, between points in TX, on the one hand, and, on the other, points in AR, LA, MS, and OK. (Hearing Site: Houston, TX.)

MC 145371 (Sub-1F), filed March 9, 1979. Applicant: MFCH, INC., Route 1, Kings, IL 61045. Representative: Daniel O. Hands 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) *foodstuffs* (except bananas, frozen foodstuffs, and commodities in bulk), (a) between the facilities of Del Monte Corporation, at points in FL, IL, IN, KS, MN, NJ, TN, TX, and WI; (b) from the facilities of Del Monte Corporation, at or near DeKalb, Mendota, and Rochelle, IL, Sleepy Eye and Wells, MN, and Arlington, Markesan and Plover, WI, to points in IL, IN, KS, KY, MI, MN, MO, NJ, ND, OH, PA, TN, WV, and WI; and (2) *cans, can ends, and packaged cut tin plate*, between the facilities of Del Monte Corporation, at points in FL, IL, MN, NJ, TX, and WI, restricted in (1)(a)(b) and (2) to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 145661 (Sub-2F), filed March 1, 1979. Applicant: WESTSIDE TRANSPORT, INC., Post Office Box 605 (Pacheco Pass Highway), Gilroy, CA 95020. Representative: Marvin Handler, 100 Pine Street, Suite 2550, San Francisco, CA 94111. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural machinery, equipment, and supplies*, between those points in CA south of the southern boundaries of Marin, Solano, Sacramento, and El Dorado Counties, on the one hand, and, on the other, those points in AZ south of the northern boundaries of Yuma, Maricopa, Gila, Graham, and Greenlee Counties, under continuing contract(s) with Sun Harvest, Inc., of Salinas, CA. (Hearing site: San Francisco, CA.)

MC 145760 (Sub-3F), filed March 5, 1979. Applicant: JOHNSON TRANSPORTATION CO., a Corporation, 1327 Highway 13 North, Columbia, MS 39439. Representative:

Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205 To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic pipe plastic pipe fittings, and materials* used in the installation of plastic pipe, from the facilities of Can-Tex Industries, at or near Columbia, MS, to points in AL, AR, CO, FL, GA, IL, IN, KS, KY, LA, MI, MO, NM, NC, OH, OK, SC, TN, TX, VA, and WV. (Hearing site: Jackson, MS, or Dallas, TX.)

MC 145870 (Sub-5F), filed March 7, 1979. Applicant: L–J–R HAULING, INCORPORATED, P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *mining machinery and equipment, and parts* for mining machinery and equipment; and (2) *materials, equipment, and supplies* used in the manufacture and installation of mining machinery and equipment, (except commodities in bulk), between the facilities of Long-Airdox Company, at or near Pulaski and Rural Retreat, VA, on the one hand, and, on the other, points in AL, AR, CO, IL, IN, KY, MD, OH, OK, PA, TN, UT, VA, WV, and WY. (Hearing site: Washington, DC, or Roanoke, VA.)

MC 145870 (Sub-6F), filed March 9, 1979. Applicant: L–J–R HAULING, INCORPORATED, P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coal*, (1) from Allen and Harlan, KY, to points in VA, and (2) from Roanoke, VA, to points in FL, GA, and SC. (Hearing Site: Washington, DC, or Roanoke, VA.)

MC 145870 (Sub-7F), filed March 9, 1979. Applicant: L–J–R HAULING, INCORPORATED, P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fabricated steel, kiln cars, and mining equipment*, from the facilities of Enterprise Fabricators, Inc., at Bristol, VA to points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MI, MS, MO, NC, OH, PA, SC, TN, VA, and WV. (Hearing Site: Washington, DC, or Roanoke, VA.)

MC 145881 (Sub-2F), filed March 2, 1979. Applicant: HERBERT L. HENLEY AND PARIS R. HENLEY, A Partnership, doing business as H & H TRANSPORTATION CO., P.O. Drawer "W", Belle, MO 65013. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65101. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *charcoal*, in bulk, from the facility of the Cherokee Indian Nation, at or near Tahlequah, OK, to the facility of the Kingsford Company, at or near Belle, MO, under continuing contract(s) with Kingsford Company, of Louisville, KY. (Hearing Site: Jefferson City or St. Louis, MO.)

MC 145901 (Sub-2F), filed March 8, 1979. Applicant: STEEL PRODUCTS FREIGHT LINES, INC., 150 Queen Parkway, West Columbia, SC 29169. Representative: David A. Sutherlund, 1150 Connecticut Avenue, NW., Suite 400, Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *nails and wire*, from West Columbia, SC, to points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MO, MS, NC, OH, SC, TN, VA, and WV, under continuing contract(s) with Queen Wire and Nail Incorporated, of West Columbia, SC. (Hearing Site: Columbia, SC, or Washington, DC.)

MC 145960 (Sub-2F), filed March 9, 1979. Applicant: JOHN AND RONALD COOPER, doing business as, CIRCLE "C" FARMS, Route 2, Colby, WI 54221. Representative: Joseph E. Ludden, 324 Exchange Building, P.O. Box 1567, La Crosse, WI 54601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cheese*, from points in Clark, Marathon, Chippewa, and Barron Counties, WI, to Wellsville, UT, Curwensville, PA, Clinton, MO, and Briggsville, IL. (Hearing Site: Minneapolis or St. Paul, MN.)

MC 146321 (Sub-1F), filed March 1, 1979. Applicant: JASPER FURNITURE FORWARDING, INC., P.O. Box 364, Westfield, IN 46074. Representative: Orville G. Lynch (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate *crated new furniture*, from Chicago, IL, to points in IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, and WI; and (2) *parts materials, and supplies* used in the manufacture and distribution of new furniture, in the reverse direction, under continuing contract(s) with S.K. Products Corp., of Chicago, IL. (Hearing Site: Indianapolis, IN, or Chicago, IL.)

Note.—Dual operations may be involved.

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[Volume No. 83]

Permanent Authority Decisions; Decision-Notice

Decided: June 14, 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 were allowed to filings prior to March 1, 1979) *will be rejected*. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or 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 to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisidictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before August 17, 1979 (or, it 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 notificaton of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

H. G. Homme, Jr.,

Secretary.

MC 340 (Sub-53F), filed March 9, 1979. Applicant: QUERNER TRUCK LINES, INC., 1131–33 Austin Street, San Antonio, TX 78208. Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at (a) Logansport, IN, and (b) Monmouth, IL, to points in TX and OK, restricted to the transportation of traffice originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX, or Oklahoma City, OK.)

MC 531 (Sub-376F), filed March 12, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from Pearl River, LA, to points in the United States (except AK and HI). (Hearing site: New Orleans, LA.)

MC 531 (Sub-378F), filed March 12, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from the facilities of Argus Chemical Corp., at or near Taft, LA, to points in the United States (except AK, HI, and LA). (Hearing site: New Orleans, LA, or Houston, TX.)

MC 2900 (Sub-364F), filed March 12, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Nash Engineering Company, at or near St. Peters, MO, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: St. Louis, MO.)

MC 11220 (Sub-167F), filed March 12, 1979. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Milwaukee and Racine, WI, to the facilities of Murray Ohio Mfg. Co., at Lawrenceburg, TN, restricted to the transportation of traffic destined to the named facilities. (Hearing site: Nashville, TN.)

MC 29910 (Sub-209F), filed March 12, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th, Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemcials*, (except in bulk), between Great Meadows, NJ, on the one

hand, and, on the other, points in the United States (except AK and HI). (Hearing Site: Washington, DC.)

MC 35320 (Sub-224F), filed March 19, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Warren/Sherer Division of Kysor Industrial Corp., at or near Conyers, GA, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing Site: Atlanta, GA, or Washington, DC.)

MC 35320 (Sub-226F), filed March 16, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities, of American Electrical Industries, at or near Sedalia, MO, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 35320 (Sub-226F), filed March 16, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities, of Danver Shoe Company, at or near Blytheville, AR, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC.)

MC 35320 (Sub-227F), filed March 16, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), from the facilities of Rohm and Haas Company, at or near (a) Bristol, Croydon, and Philadelphia, PA, (b) Louisville, KY, (c) Knoxville, TN, (d) Houston, TX, and (e) Hayward, CA, to points in AR, AZ, CA, CO, IA, IL, IN, LA, MI, MN, MS, MO, OH, OK, OR, NV, NM, ND, TN, TX, UT, WA, and WY. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 35320 (Sub-228F), filed March 16, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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, ammunition, and parts of ammunition), serving the facilities of Clark Equipment Company, at or near Georgetown, KY, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Louisville, KY, or Washington, DC.)

MC 35320 (Sub-229F), filed March 16, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, 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, ammunition, and parts of ammunition), serving the facilities of The B. F. Goodrich Company, at or near Oneida, TN, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Knoxville, TN, or Washington, DC.)

MC 35320 (Sub-230F), filed March 16, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of the American Greetings Corp., at or near Osceola, AR, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Memphis TN, or Washington, DC.)

MC 35320 (Sub-231F), filed March 16, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of the Magma Copper Co., at or near San Manuel, AZ, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Tucson or Phoenix, AZ.)

MC 35320 (Sub-232F), filed March 16, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Watts Regulator Co., at or near Spindale, NC, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 35320 (Sub-233F), filed March 16, 1979. Applicant: T.I.M.E.– DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Southwest Pump Company, at or near

Bonham, TX, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing Site: Dallas, TX, or Washington, DC.)

MC 35320 (Sub-240F), filed March 12, 1979. Applicant: T.I.M.E.- DC, INC., P.O. Box 2550, 2598 74th Street, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of General Motors Corporation, at or near Janesville, WI, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing Site: Milwaukee, WI, or Washington, DC.)

MC 52460 (Sub-237F), filed March 15, 1979. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, at or near Iowa City and Muscatine, IA, to points in AR, KS, LA, MO, OK, and TX, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing Site: Pittsburgh, PA, or Kansas City, MO.)

MC 59150 (Sub-149F), filed March 12, 1979. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., 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 *iron and steel articles*, from points in Jefferson County, AL, to points in FL, GA, LA, MS, NC, SC, TN, and VA. (Hearing site: Birmingham, AL.)

MC 59680 (Sub-223F), filed March 5, 1979. Applicant: STRICKLAND TRANSPORTATION CO., INC., 11353 Reed Hartman Hwy, Cincinnati, OH 45241. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Memphis, TN, and the facilities of Wilson Freight Company, at or near South Charleston, OH, from Memphis, TN, over Interstate Hwy 40 to junction Interstate Hwy 65, then over Interstate Hwy 65 to junction Interstate Hwy 71, then over Interstate Hwy 71 to junction OH Hwy 48, then over OH Hwy 48 to junction U. S. Hwy 42, then over U. S. Hwy 42 to the facilities of Wilson Freight Company, at or near South Charleston, OH, and return over the same route, serving no intermediate points. (Hearing Site: Cincinnati, OH, or Washington, DC.)

Note.—Applicant indicates intention to tack with existing authority.

MC 85970 (Sub-24F), filed March 1, 1979. Applicant: SARTAIN TRUCK LINE, INC., 1354 N. Second St., Memphis, TN 38107. Representative: Warren A. Golf, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting (1) *plastic articles, and materials, equipment, and supplies* used in the distribution of plastic articles, from the facilities of Tupperware Company, at or near Halls, TN, to points in IL, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of plastic articles, in the reverse direction. NOTE: Applicant indicates intention to tack with existing authority. (Hearing Site: Memphis, TN.)

MC 94201 (Sub-170F), filed March 14, 1979. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *carbon*, in bags, from the facilities of Schuler Industries, Inc., Carbon Division, at Birmingham, AL, to those points in the United States in and east of MN, IA, MO, KS, OK, and TX. (Hearing Site: Birmingham, AL.)

MC 95540 (Sub-1093F), filed March 16, 1979. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, 1144 West Griffin Road, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *foodstuffs*, in vehicles equipped with mechanical refrigeration, from (1) the facilities of Saluto Foods, Inc., at or near Montgomery and (2) Fort Payne, AL, to points in AR, CO, FL, GA, KS, LA, MS, MO, NC, OK, SC, TN, and TX. (Hearing Site: Detroit, MI, or Washington, DC.)

MC 103490 (Sub-76F), filed March 13, 1979. Applicant: PROVAN TRANSPORT CORP., 210 Mill Street, Newburgh, NY 12550. Representative: Morton E. Kiel, Suite 6193, 5 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 *petroleum and petroleum products*, in bulk, in tank vehicles, from Swearen, NJ, to points in DE and PA. (Hearing Site: New York, NY.)

Note.—Dual operations may be involved.

MC 108341 (Sub-138F), filed March 12, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Morton E. Kiel, Suite 6193, 5 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 *iron and steel articles, weldments*, and *fabrications* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between the facilities of Overland Steel Company, at or near Sandy Springs, SC, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing Site: Atlanta, GA, or Washington, DC.)

MC 109891 (Sub-36F), filed January 26, 1979, previously noticed in the **Federal Register** issue of April 30, 1979. Applicant: INFINGER TRANSPORTATION COMPANY, INC., 2811 Carner Avenue, P.O. Box 7398, Charleston Heights, SC 29405. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bauxite ore*, in bulk, in tank vehicles, from Charleston, SC, to East Point, GA; and (2) *soda ash*, in bulk, in tank vehicles, from East Point, GA, to Charleston, SC. (Hearing Site: Washington, DC, or Columbia, SC.)

Note.—This republication states part (2).

MC 111941 (Sub-31F), filed March 12, 1979. Applicant: PIERCETON TRUCKING COMPANY, INC., P.O. Box 233, Laketon, IN 46943. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over

irregular routes, transporting *iron and steel articles*, from the facilities of Inland Steel Company, at East Chicago, IN, to points in IL. (Hearing Site: Indianapolis, IN, or Chicago, IL.)

MC 112520 (Sub-363F), filed March 12, 1979. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Thomas F. Panebianco (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, from Port Saint Joe, FL, to points in CO, CT, DE, IA, IL, IN, KS, MA, ME, MI, MN, MO, ND, NE, NJ, NY, OK, PA, SD, TX, WI, WV, and VT. (Hearing Site: Atlanta, GA.)

MC 113271 (Sub-50F), filed March 12, 1979. Applicant: CHEMICAL TRANSPORT, a Corporation, P.O. Box 2644, Great Falls, MT 59403. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *agricultural chemicals*, (1) from the facilities of Falls Chemicals Inc., at or near Great Falls, MT, to points in AZ, CA, CO, ID, IL, IA, KS, MN, MO, NE, NV, NM, ND, OR, SD, UT, WA, and WY, and (2) from points in CA, IL, MN, OR, and WA, to the facilities of Falls Chemicals, Inc., at or near Great Falls, MT. (Hearing Site: Great Falls, MT.)

MC 113271 (Sub-51F), filed March 12, 1979. Applicant: CHEMICAL TRANSPORT, a Corporation, P.O. Box 2644, Great Falls, MT 59403. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *zinc dross*, from the facilities of American Chemet Corporation, at or near East Helena, MT, to the port of entry on the international boundary line between the United States and Canada, at Sweetgrass, MT. (Hearing Site: Great Falls or Helena, MT.)

MC 114301 (Sub-105F), filed March 12, 1979. Applicant: DELAWARE EXPRESS CO., a corporation, P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid fertilizer*, in bulk, in tank vehicles, from Seaford, DE, to points in MD, VA, DE, PA, and NJ. (Hearing Site: Washington, DC.)

MC 115180 (Sub-99F), filed March 15, 1979. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 265 West 14th Street, New York, NY 10011. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods*, from the facilities of the Campbell Soup Company, at Chicago, IL, to La Crosse, Eau Clair, and Superior, WI, and points in ND, MN, SD, IA, and NE, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing Site: Chicago, IL, or Washington, DC.)

MC 115311 (Sub-343F), filed March 6, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Ralph B. Matthews, P.O. Box 872, Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *adhesives, cement compounds, caulking compounds, cleaning and polishing compounds and solutions, emulsions, latex solutions, mastic material, sealing primer, and solvents*, (except commodities in bulk, in tank vehicles), and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities named in (1) above (except commodities in bulk, in tank vehicles, and commodities requiring special equipment), between the facilities of Durabond Products Company, at or near (a) Elk Grove Village and Rosemont, IL, and (b) Trenton, NJ, 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, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL.)

MC 115311 (Sub-345F), filed March 22, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages*, from the facilities of Jos. Schlitz Brewing Company, at or near (a) Milwaukee, WI, (b) Memphis, TN, (c) Tampa, FL, and (d) Winston-Salem, NC, to points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, TX, VA, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of malt beverages, (except commodities in bulk), in the reverse direction. (Hearing site: Milwaukee, WI.)

MC 115331 (Sub-488F), filed March 8, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 11040 Manchester Rd., St. Louis, MO 63122. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *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 IL, IN, KS, KY, MO, OH, TN, and WI, restricted to the transportation of traffic originating at the facilities of Quaker State Oil Refining Corp., in Warren County, MS. (Hearing site: Memphis, TN, or Washington, DC.)

MC 115331 (Sub-490F), filed March 14, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lead oxide*, from Savanna, IL, to points in WI, MI, MN, IA, MO, KS, NE, IN, OH, KY, TN, and AR. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 115821 (Sub-41F), filed March 12, 1979. Applicant: FRANK BEELMAN, d.b.a., BEELMAN TRUCK CO., St Libory, IL 62282. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *roofing granules*, from the facilities fo GAF Corporation, at or near Annapolis, MO, to points in AL, AR, CO, FL, GA, IL, IN, KS, KY, LA, MS, MO, OH, OK, TN, and TX. (Hearing site: St. Louis, MO.)

MC 115821 (Sub-42F), filed March 12, 1979. Applicant: FRANK BEELMAN, d.b.a., BEELMAN TRUCK CO., St Libory, IL 62282. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *salt*, from St. Louis, MO, to points in IL and IN. (Hearing site: St. Louis, MO, or Washington, DC.)

MC 115841 (Sub-689F), filed March 13, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919.

Representative: D. R. Beeler, 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods*, from Fort Payne and Montgomery, AL, to points in LA, CO, FL, and TX. (Hearing site: Chicago, IL, or Washington, DC.)

MC 123061 (Sub-119F), filed March 16, 1979. Applicant: LEATHAM BROTHERS INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283 E. South Temple #501, Salt Lake City, UT 84102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *masonry products*, from points in CO, to points in UT, ID, CA, WY, and NV. (Hearing Site: Salt Lake City or Ogden, UT.)

MC 121470 (Sub-21F), filed March 12, 1979. Applicant: TANKSLEY TRANSFER COMPANY, a corporation, 801 Cowan Street, Nashville, TN 37207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *air cleaners, air coolers, and air heaters* (except portable), from the facilities of ITT-Nesbitt, at or near Jackson, TN, to points in the United States (except AK, HI, and TN). (Hearing Site: Nashville, TN.)

MC 124070 (Sub-34F), filed March 15, 1979. Applicant: CHEMICAL HAULERS, INC., 5723 Kennedy Avenue, Hammond, IN 46323. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chemicals*, in bulk, in tank vehicles, from the facilities of Dow Chemical U.S.A., at Channahon, IL, to those points in the United States on and east of U.S. HWY 85. (Hearing Site: Chicago, IL.)

MC 124251 (Sub-59F), filed March 13, 1979. Applicant: JACK JORDAN, INC., P.O. Box 689, Dalton, GA 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid synthetic plastic*, in bulk, in tank vehicles, from Seneca, IL, to points in GA. (Hearing Site: Atlanta, GA.)

MC 135070 (Sub-39F), filed March 12, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), (1) from the facilities of Durkee Foods, Division of SCM Corporation, at or near Bethlehem, Shiremanstown, and Mechanicsburg, PA, to points in CA, and (2) from the facilities of Durkee Foods, Division of SCM Corporation, at or near (a) Brooklyn, NY, and (b) Parkesburg, PA, to points in WI, MN, MI, OH, IL, FL, GA, TN, TX, IA, NE, KS, MO, CO, and CA. (Hearing Site: Allentown, PA, or Amarillo, TX.)

Note.—Dual operations may be involved.

MC 136511 (Sub-33F), filed March 16, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24502. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *applesauce, apple juice, apple butter apple vinegar and apple slices*, from Winchester and Timberlake, VA, Martinsburg, WV, and Lincolnton, NC, to points in FL, TX, NC, SC, AL, GA, TN, MS, LA, AR, and OK. (Hearing site: Richmond, VA, or Washington, DC.)

MC 140241 (Sub-47F), filed March 5, 1979. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison St., Topeka, KS 66603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fencing, fencing materials, wire, and wire products*, from the facilities of Bekaert Steel & Wire Corporation, at or near Van Buren, AR, to points in AZ, CA, CO, ID, IA, IL, IN, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA, WI, and WY. (Hearing site: Tulsa, OK.)

MC 142470 (Sub-1F), filed March 13, 1979. Applicant: FLEET TRANSIT, INC., 3445 Fairfield Road, Baltimore, Md. 21226. Representative: Marie T. Loepp, 927 15th Street, Suite 306, Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products* (except asphalt, asphalt products, and petrochemicals), (1) from Baltimore, MD, to Alexandria, VA, and points in Accomack, Arlington, Clarke, Culpepper, Fairfax, Fauquier, Frederick, Loudoun, Northampton, Prince William, Rappahannock, Shenandoah, Stafford, and Warren Counties, VA, Berkeley, Grant, Hampshire, Hardy, Mineral, and Pendleton Counties, WV, and DE, PA, and DC, and (2) from points in Fairfax County, VA, to points in Berkeley, Grant, Hampshire, Hardy, Mineral,a nd Pendleton Counties, WV, and DE, PA, and DC, and (2) from points in Fairfax County, VA, to points in Berkeley, Grant, Hamsphire, Hardy, Mineral, and Pendleton Counties, WV, and points in DE, MD, PA, and DC, under continuing contract(s) with Apex Oil Company, of St. Louis, MO, and Fleet Supply, Inc., of Baltimore, MD. (Hearing Site: Washington, DC, or Baltimore, MD.)

MC 143511 (Sub-5F), filed March 12, 1979. Applicant: HARDINGER TRANSFER CO., INC., P.O. Box 521, Erie, PA 16512. Representative: Paul F. Sullivan, 711 Washington, Bldg., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *locomotive parts*, from the facilities of General Electric Company, at or near Erie, PA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, (2) *locomotive parts, and materials, equipment, and supplies* used in the manufacture and distribution of locomotive parts, (except commodities in bulk, in tank vehicles), in the reverse direction, and (3) *locomotive parts*, from St. Louis, MO, to the facilities of General Electric Company, at or near Grove City, PA. (Hearing site: Pittsburgh, PA.)

MC 145560 (Sub-7F), filed March 16, 1979. Applicant: NORTH ALABAMA TRANSPORTATION, INC., Post Office Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *candy*, from the facilities of American Candy Manufacturing Company, Inc., at or near Selma, AL, to points in AZ, CA, CO, ID, OR, UT, and WA, under continuing contract(s) with American Candy Manufacturing Company, Inc., of Selma, AL. (Hearing Site: Birmingham, AL.)

Note.—Dual operations may be involved.

MC 145950 (Sub-13F), filed March 15, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76710. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glassware*, from the

facilities of Reikes Crisa Corporation, at or near Laredo, TX, to points in the United States (except AK and HI). (Hearing site: Dallas or Houston, TX.)

Note.—Dual operations may be involved.

MC 146041 (Sub-2F), filed March 12, 1979. Applicant: CAL-TEX INC., 2300 Harbor Blvd. #8, Costa Mesa, CA 92626. Representative: Robert G. Egerton (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foodstuffs*, from Laramie, WY, to points in DE, GA, MD, NC, NJ, PA, SC, VA, WV, and DC. (Hearing site: Los Angeles, CA, or Washington, D.C.)

Note.—Dual operations may be involved.

Passenger Authority

MC 30521 (Sub-1F), filed March 8, 1979. Applicant: H & L BLOOM, INC., 427 Cohannet Street, Taunton, MA 02780. Representative: Arthur M. White, 281 Pleasant Street, P.O. Box 2547, Framingham, MA 01701. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage* in the same vehicle with passengers, in charter operations, beginning and ending at Fall River, MA, and extending to points in the United States (including AK, excluding HI). (Hearing Site: Providence, RI.)

MC 126551 (Sub-5F), filed March 16, 1979. Applicant: PHILBORO COACH CORP., a Corporation, 1065 Belvoir Road, Norristown, PA 19401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Post Office Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage* in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Philadelphia, Bucks, Montgomery, Chester, and Delaware Counties, PA, and extending to points in the United States (except AK and HI). (Hearing Site: Philadelphia, PA.)

[FR Doc. 79-22123 Filed 7-17-79; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. MC-126; General Temporary Order No. 18]

General Temporary Authority Regular-Route Passenger Operations; Decision

Decided: July 10, 1979.

There is an emergency shortage of gasoline supplies in the United States. This shortage requires immediate action by the Commission, in the public interest, to encourage the provision of the greatest possible degree of bus service for the transportation of passengers and their baggage in regular-route operations.

By letter dated April 30, 1979, Trailways, Inc., has proposed that the Commission consider granting temporary authority to existing fit bus carriers which request 90 days or less authority to provide daily interstate schedules over routes which they can conveniently operate and serve the public. Notice of this proposal was published in the **Federal Register** on May 29, 1979, at 44 FR 30810, and comments were solicited from interested persons. We would point out that the publication of an advance notice of a contemplated grant of general temporary authority is an unusual procedure, which was undertaken because of the anticipated opposition to the proposal by small carriers in general.

Comments in Support

Relatively few of the comments received express support for the proposed grant of general temporary authority. Those who do support the proposal include:

Baltimore and Annapolis Railroad Company, a motor passenger carrier, which asserts that the proposal would allow it to institute new routes for the busy summer season where demand is high, without resulting in long-term alteration of the competitive balance in the motorbus industry;

Brooks Bus Line, which states that it has no objection to the proposal and suggests that it might provide a good test of the results of deregulation;

Trailways, Inc., which asserts that even Greyhound Lines, Inc., does not have the capacity to absorb the current passenger traffic surge, that normal temporary authority procedures are not adequate to cope with an emergency which exists on a nationwide basis, and that special fares should be applicable to new operations;

Council on Wage and Price Stability, which argues that the energy problem is inextricably intertwined with the problem of inflation, that anything possible must be done to improve the availability of bus service and get travelers out of their automobiles, that new services could be provided to communities which do not now have bus service, as well as to suburban stops around major cities and intermediate points which are now served inadequately, that the proposal holds the prospect for improved bus services over more direct routes, that downward fare flexibility should be permitted over new routes, and that the proposal would allow bus companies to refute the myth that bus service must be unattractive;

Office of Special Counsel of the Interstate Commerce Commission, which does not take a position in favor of or in opposition to the proposal, but presents several observations concerning the proposal; and

United States Department of Transportation, which supports the proposal but opposes any relaxation of exit regulation, points out that there are many restrictions on bus services which are imposed by State authorities and thus are beyond this Commission's jurisdiction, and thus questions whether the proposal would be an adequate demonstration of the effects of deregulation.

Comments in Opposition

There is much opposition to the proposal. Nearly all the carriers filing comments are opposed to the proposed grant of general temporary authority, and their comments are similar and can be summarized generally.

It is argued that existing carriers have sufficient capacity to handle much more traffic than they now enjoy. The carriers generally indicate that they have not yet experienced any ridership increase too great for them to handle. Most of the carriers indicate that they have extra equipment ready to handle increased traffic, but their present schedules operate with many empty seats. Equipment shortages in individual situations are routinely met by leasing equipment and drivers from other carriers, and it is said that the industry as a whole could accommodate a much greater increase in traffic than there is any prospect of occuring during the upcoming summer travel season. Many of the carriers point out that there is no information pointing to any traffic lanes where existing carriers do not have the capacity to provide increased service, and several suggest that Trailways would do well to concentrate on serving its existing routes better, rather than branching off into new services.

In general, the opposing carriers assert that their peak summertime traffic yields the profits which they need to sustain their operations through the rest of the year. Accordingly, it is argued that diversion of traffic by new carriers would ultimately be detrimental to small communities which do not yield profitable traffic but would likely be left to rely on the services of the existing carriers. The betterment of the new

carriers in this manner, at the expense of the existing carriers, it is argued, can serve no significant long-term advantage. Furthermore, it is feared that unfettered competition by the two major national carriers (Greyhound and Trailways) would be particularly destructive to small independent carriers. Specifically, the point was made by several of the commenting carriers that the general temporary authority would allow Trailways in particular to bypass its "bridge" carriers and divert their revenues.

It is also argued that duplication of services would generally result only in wasting fuel, since more buses would be operating with more empty seats. It is pointed out that there is now a diesel fuel shortage as well as a gasoline shortage, and operation of two competing buses to handle traffic which could fit in a single bus would not be an efficient use of diesel fuel supplies. The most often cited example of a market which would be likely to attract numerous duplicative services is Atlantic City, NJ.

It is also pointed out that the difficulty which a new carrier would experience in establishing adequate terminal facilities for a relatively short time period would mean, as a practical matter, that Trailways would be the only carrier which would be able to take any significant advantage of the grant of general temporary authority. It is pointed out that the Port Authority Bus Terminal in New York City is already overcrowded, and yet city laws require intercity bus services to use that terminal. In other cities, the only bus terminals available are often operated by Greyhound and Trailways, respectively, who may not make their facilities available to competing carriers. At the same time, the complaint is raised that there is no indication in the Trailways letter proposing this action of where Trailways now has excess equipment available to provide new services or which new markets it intends to serve.

One suggestion was made that any temporary authority should be limited to routes where no bus service is now available. Another carrier said, "There are literally no areas in the United States which are without bus services, except in those few remote locales where, gas crisis or not, such is not feasible." Several commentors suggested that any isolated problems which do in fact arise can be handled under existing emergency temporary authority procedures, which can be—and routinely are—handled on very short notice.

Finally, a few carriers argue that the notice of this proceeding was defective in failing to refer to the legal authority under which the proposal was being made. Another comment pointed out, however, that temporary authority may be granted without regard to hearing and rulemaking requirements of the Administrative Procedure Act, but it also noted that the Commission's decision in the matter may not be arbitrary, capricious, or an abuse of discretion.

Those who submitted comments in opposition to the proposal are:

- Adirondack Transit Lines, Inc.
  Boise-Winnemucca Stages, Inc.
  Capital Motor Lines, Inc.
  Capitol Bus Company
  Carolina Coach Company
  Citizen Auto Stage Company
  Colonial Trailways, Inc.
  Empire Lines, Inc.
  Evergreen Trails, Inc.
  Indian Trails, Inc.
  Jefferson Lines, Inc.
  Frank Martz Coach Company
  Midwest Coaches, Inc.
  Mt. Hood Stages, Inc.
  Northwestern Stage Lines, Inc.
  Pine Hill-Kingston Bus Corp.
  Seashore Transportation Company
  Washington Coach Lines, Inc.
- Airport Shuttle Service, Inc.
- Bonanza Bus Lines, Inc.
  Transport of New Jersey
  Blue & Grey Transit, Inc.
- Conestoga Transportation Company
  Mary Elizabeth Hubers, John Edward Hubers, and William Joseph Hubers, a partnership
- Eyre's Bus Service, Inc.
- Greyhound Lines, Inc.
- Hudson Transit Lines, Inc.
  Chenango Valley Bus Lines, Inc.
  Colonial Coach Corp.
  Suburban Transit Corp.
- Illini Swallow Lines
- Jefferson Lines, Inc.
- Kerrville Bus Company, Inc.
  Painter Bus Lines
  Texas, New Mexico & Oklahoma Coaches, Inc.
- Las Vegas-Tonopah-Reno Stage Lines, Inc.
- Lincoln Transit Co., Inc.
  DeCamp Bus Lines
  Campus Travel, Inc.
- Maplewood Equipment Company
  Garden State Transit Lines, Inc.
  Asbury Park-New York Transit Corp.
  New York-Keansburg-Long Branch Bus Co.
  Starr Transit Lines
  Arrow Bus Company
  West Hunterdon Transit
  Boulevard Transit Lines
  N & N Charter Tours, Inc., t/a Carefree Bus Service
  Real Transit, Inc.
- McGill's Taxi and Bus Lines, Inc., d/b/a Asheboro Coach Co.
- New Mexico Transportation Company
- Orange Belt Stages
- Peerless Stages, Inc.
- Southeastern Stages, Inc.
- Southern Coach Company
- Vermont Transit Co., Inc.
- Amalgamated Transit Union AFL–CIO
- American Bus Association
- Independent Bus Operators Committee on Regulation
- United Bus Owners of America

Conclusions

The severe gasoline shortage during the upcoming summer travel season is likely to discourage reliance on private automobiles. We believe that the resulting increased demand for interstate bus service is likely to exceed the ability of existing carriers to handle within the scope of their existing authority. We therefore find that there is an immediate nationwide need for increased interstate bus service that existing carriers are not capable of meeting. 49 U.S.C. 10928.

Increased bus service will clearly further the public interest during the present fuel crisis. Buses are far more fuel-efficient than private automobiles, and measures that encourage persons to travel by bus rather than car can help conserve fuel and reduce the demand for gasoline. Such measures also serve the national transportation policy: they more fully exploit the "inherent advantage" of bus operations in the context of a fuel shorage; they promote "adequate, economical, and efficient transportation" for the traveling public; and they further the goal of "sound economic conditions" among bus carriers. 49 U.S.C. 10101.

We act now rather than waiting for specific problems to arise. Carriers need some time to plan and start up new services, and travelers need to know what services will be available before they can be expected to commit themselves and their travel plans to the use of buses instead of cars. If we were to wait for the bus system to break down, our action might come too late to meet the expected need and we might lose the opportunity to encourage persons to plan for bus travel. We are dealing here with only a few summer months. If we are to meet the important objectives we have identified, we cannot afford merely to react to crises after they develop. We must anticipate the problems and take steps now to avoid them.

By the same token, general actions require some safeguards to avoid damaging the existing bus service network to a degree which would be counterproductive in the long term. Most of the objections of the carriers which oppose this proposal can be satisfied while still promoting additional bus services. To this end, we will grant general temporary authority for motor

passenger carrier operations as set forth in the ordering paragraphs below.

Temporary authority will be available to all carriers for any situations which fall within any one (or more) of the circumstances listed. These circumstances generally describe situations in which the temporary authority would either offer more efficient ways of providing some existing services or threaten relatively little adverse impact to exisitng carriers. Authority to transport express and newspapers will be included in these grants of authority, so that operating efficiencies may be extended to this traffic as well and so that additional revenue support will potentially be avaiable for these services.

For services which do not fall within these described circumstances, the existing procedures for obtaining temporary authority or emergency temporary authority will still be available, and we will look favorably upon applications filed under the existing procedures. It should be noted that the majority of emergency temporary authority applications are now being handled the same day they are filed. In addition, we would like to point out that item (h) of the procedures we are adopting here permits regional officials to grant temporary authority whenever an existing carrier's equipment or facilities are so inadequate that its service fails to conform to any of the provisions of the Commission's Regulations Governing the Adequacy of Intercity Motor Common Carrier Passenger Service (49 CFR 1063). The regulation at 49 CFR 1063.6(d), in particular, requires that sufficient equipment be provided to guarantee passage and seating to all passengers, to the extent reasonably possible; we will interpret the inability of an existing carrier to provide seating for all passengers as grounds for a grant of authority under Item (h).

Carriers taking advantage of this temporary order shall not divert equipment needed to provide existing services in order to start new services. There are some who argue that some existing services do not carry enough traffic to be as efficient as new services which could be operated in their stead. However, a review of the number of points served now as compared to decades ago indicates that carriers may have already eliminated most services which, in fact, carry so few passengers as to be inefficient. We do not intend to permit any carrier to abandon existing customers who have come to rely upon their services in favor of potential new customers who may or may not provide increased profits. This is not the time, under the guise of efficiency, to allow existing services to be discontinued for a short term advantage.

In past general temporary orders, we have normally provided that rates charged by carriers taking advantage of the general temporary authority may not be lower than those charged by existing carriers in the territory. With one exception, we believe that this approach should be followed in this instance as well. Bus transportation is generally the least expensive mode of public transportation available in this nation, but the extent to which existing fare levels may discourage use of the service is certainly minimal. Those who advance the possibility of allowing downward fare flexibility under this general temporary order suggest that the competition engendered thereby would result in improved services to the public. We believe that this issue should not affect the goal of ensuring the greatest possible availability of bus service during the period of the gasoline shortage. The questions concerning fare flexibility—both upward and downward—are under review in other proceedings, and they are both important and complex enough to warrant more careful and thorough review than is possible in the short time available to reach a decision in this proceeding.

We will, however, allow carriers to apply their existing network fare schedules to new routes, even if this should result in a fare lower than that of an existing carrier over the same route. Thus, if a carrier's fares are calculated on a mileage basis for its existing route network, for example, then the same basis may be applied to calculate fares for new routes it operates. Carriers should advise the Commission of the tariffs and fare levels that are the basis for such lower fares. Similarly, special fares or excursion fares which a carrier makes available over its route network in general may be made applicable over new routes as well.

We do recognize that experience under this general grant of temporary authority may provide some insight into the possible results of various deregulation proposals which are now under consideration. Therefore, we will impose a reporting requirement on carriers who take advantage of this general temporary order. It is our intention to make this reporting requirement as brief and simple as possible, while still providing meaningful information as to traffic volumes experienced in new operations. Accordingly, we will require only that a single copy of the brief traffic report described in the "General Requirements" section below be filed with the same regional official the carrier contacted to receive the grant of temporary authority.

Nothing in this order waives any requirements set forth in the Commission's Regulations Governing the Adequacy of Intercity Motor Common Carrier Passenger Service (49 CFR 1063), except that we will not construe the regulation at 49 CFR 1063.6(b) to require advance notice of the institution of new services.

The effective dates of this order have been chosen so as to extend far enough beyond Labor DAy to accomodate late vacation traffic and college-bound traffic, if necessary.

It is ordered: Pursuant to 49 USC 10928 (formerly section 210a(a) of the Interstate Commerce Act), temporary authority will be granted to all persons who apply to any Regional Operations Director, Assistant Regional Operations Director, District Supervisor, or their designees, of the Commission's Bureau of Operations, for transportation services as described below, for a period not to exceed the effective dates of this decision, to the extent and scope that any of the above designated officials certify that there is an immediate and urgent need for service. Special procedures will be used to expedite the filing and processing of these applications.

Applications will be approved for the transportation of passengers and their baggage, and express and newspapers, in the same vehicle with passengers, over regular routes specified in the application, when the application proposes:

(a) To provide service to points having no present interstate motorbus service;

(b) To provide service over routes between points having no present direct interstate motorbus service;

(c) To provide service at intermediate points on regular routes (including alternte routes, for operating convenience only) authorized in certificates of public convenience and necessity;

(d) To remove restrictions on service at points the applicant is already authorized to serve on some traffic;

(e) To provide direct servie over alternate routes between existing service points for advance or extra sections of presently scheduled services, without regard to the degree of circuity eliminated, provided that the scheduled service is maintained for all passengers

presenting themselves for transportation at the scheduled time:

(f) To provide direct joint-line service over alternate routes between existing service points for advance or extra sections of presently scheduled through-bus interline services, without regard to the degree of circuity eliminated, provided that the scheduled service is maintained for all passengers presenting themselves for transportation at the scheduled time, and provided that the application is submitted jointly by all the carriers participating in the underlying scheduled through-bus service between the points involved;

(g) To provide interstate service over routes currently operated in intrastate commerce only; or

(h) To provide services over a route where an existing carrier is unwilling or unable to provide, through its own or leased equipment, service which conforms to the Commission's Regulations Governing the Adequacy of Intercity Motor Common Carrier Passenger Service (49 CFR 1063).

General Requirements

No carrier which takes advantage of this general grant of temporary authority may reduce its existing level of service to any point in order to provide equipment for new routes.

This grant of temporary authority is conditioned upon compliance with applicable requirements concerning tariff publication, evidence of security for the protection of the public, and designation of agents for service of process. Tariffs must quote rates, fares, and charges which are no lower than those of existing motor passenger carriers in the territory in which the operations are to be authorized, except to the extent that the rates, fares, and charges are at the same level as those of the applicant carrier on its route network in general.

Carriers which receive grants of temporary authority pursuant to this general order must file, within 30 days after the expiration of this general temporary order, a brief traffic report showing the schedules which it operated over all the new routes it served, and the daily traffic volume it handled over those routes. The traffic report shall be filed with the regional official who granted the temporary authority, who will forward all reports to the headquarters office of the Bureau of Operations after the filing deadline has passed.

Service performed under temporary authority granted pursuant to this order shall in no way constitute evidence or a showing warranting future issuance of a certificate of public convenience and necessity or permit, as provided in 49 U.S.C. 10922 and 49 U.S.C. 10923.

Temporary authority granted pursuant to this order shall expire at 11:59 p.m., September 25, 1979.

This order shall become effective on its service date.

Notice of this order shall be given by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and by filing a copy with the Director, Office of the Federal Register, for publication.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Commissioner Stafford dissenting with a separate expression. Commissioner Gresham supports the general thrust of today's decision, but believes that competition by the two major national carriers would be particularly destructive to the smaller, independent carriers. His approval was specifically conditioned upon inclusion of a condition allowing those carriers to institute service only in response to the initiation of a competitive service by the independent carriers. That condition failed to win the support of a majority of the Commission. Accordingly, Commissioner Gresham respectfully dissents.

H. G. Homme, Jr.,

Secretary.

Commissioner Stafford, dissenting—Is this really a "temporary" order? For those carriers that make investments (and even for those that do not), does anyone sincerely believe that this authority ever will be taken away? I certainly do not. Therefore, what we do here must come only after very careful Commission review. My disagreement with today's decision is more with the way it has been handled, rather than with the proposal itself.

First, this General Temporary Order emanates from a rulemaking that was not instituted in conformity with the Commission's Rules of Practice. Rule 42, 49 CFR 1100.42, requires rulemaking proceedings to be instituted by the Commission, not by a Notice issued by the staff or by the order of an individual Commissioner. More specifically, the rule states: "Whether a proceeding shall be instituted as requested *is within the discretion of the Commission* . . . In the event a rulemaking proceeding is instituted *by the Commission,* the procedure to be employed . . . will be designated *by Commission* order." (emphasis added). This proceeding was handled in disregard of our own rules. I am aware of the great procedural flexibility the Commission has in entering emergency Temporary Orders. However, once a procedure is adopted, we cannot alter that procedure to reach a predetermined end. Instead of entering a final (and possibly unlawful) order at this time, I would solicit further comments from the public on these proposals.

A further comment period is warranted here for another reason. The general temporary order entered here reaches results completely different from the issues addressed in the initial comments. There was overwhelming industry opposition to the initial proposal; I question whether that opposition will continue to all of the proposals made here.

In my view, Parts (a)–(g) are reasonable proposals that should at least receive public comment. Part (h), however, requires a subjective determination regarding the adequacy of existing service. This is a matter that probably should remain with the Motor Carrier Board.

[Fr Doc. 79-22156 Filed 7-17-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 117]

Motor Carrier Temporary Authority Applications

June 26, 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 provided 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.

By the Commission.

H. G. Homme, Jr.,
Secretary.

Motor Carriers of Property

MC 136553 (Sub-76TA), filed May 31, 1979. Applicant: ART PAPE TRANSFER, INC., 1080 E. 12th St., Dubuque, IA 52001. Representative: Wm. L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. (1) *Coolant filters, metal chip conveyors, and parts washing machines,* from Dubuque, IA to points in IL, IN, MI and WI, and (2) *materials and supplies used in the manufacture of the commodities named in (1) above (except commodities in bulk)* from points in IL, IN, MI and WI to Dubuque, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hymco Corporation, 2393 Garfield, Dubuque, IA 52001. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 138732 (Sub-27TA), filed June 7, 1979. Applicant: OSTERKAMP TRUCKING, INC., 764 North Cypress Street, P.O. Box 5546, Orange, CA 92667. Representative: Michael R. Eagleton, 2500 Old Crow Canyon Road, Suite 325, San Ramon, CA 94583 *Lumber, lumber products, and wood products,* from points in ID, to points in AZ and NM, for 180 days. Supporting shipper(s): Trio Sales Company, P.O. Box 25606, Albuquerque, NM 87125; Wickes Forest Industries, P.O. Box 153, Grangeville, ID 83530; American International Forest - Products, P.O. Box 4166, Portland, OR 97208; Louisiana-Pacific Corporation, 1300 S.W. 5th Avenue, Portland, OR 97201. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 138882 (Sub-261TA), filed May 25, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Canned and preserved foodstuffs,* from the facilities of Heinz USA, Division of H. J. Heinz Co., at or near Greenville, SC to points in AL, FL, GA, MS, NC, TN and the New Orleans, LA Commercial Zone, and in each case restricted to traffic originating at the named facilities and destined to the named states, for 180 days. Supporting shipper(s): Heinz USA, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Mabel E. Holston, T/A, Room 1616, 2121 Building, ICC, Birmingham, AL 35203.

MC 138882 (Sub-262TA), filed May 29, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Charcoal, charcoal briquetts, hickory chips, vermiculite, charcoal lighter fluid, compressed sawdust, wax impregnated fireplace logs, and barbeque items, materials and equipment used in the distribution of the above named commodities* (except commodities in bulk), Between Dothan, AL and points in MD, VA, and DC, for 180 days. Supporting shipper(s): The Kingsford Company, 1700 Commonwealth Bldg., P.O. Box 1033, Louisville, AL 40201. Send protests to: Mabel E. Holston, T/A, ICC, Suite 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-263TA), filed May 25, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Lumber and lumber products including plywood,* from the facilities of Union Camp Corp., located at or near Chapman, AL, to points in KY, NC, PA, SC, TN, VA, WV, for 180 days. Supporting shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 13882 (Sub-264TA), filed May 25, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). *Citrus juices and beverages,* from the facilities of Tropicana Products, Inc. located in Manatee County, FL to the states of AL, AR, IA, KS, LA, MS, MO, NE, OK, TN and TX, for 180 days. Supporting shipper(s): Tropicana Products, Inc., P.O. Box 338, Bradenton, FL 33506. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138882 (Sub-266TA), filed May 29, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (P.O. box same as applicant). *Canned goods,* (except frozen and in bulk), From the facilities of the Joan of Arc Company at or near Hoopeston and Princeville, IL and St. Francisville and Belledeau, LA to points in AR, CA, CO, ID, MT, NV, OR, UT, WA, and WY, for 180 days. Supporting shipper(s): Joan of Arc, Inc., 2231 W. Altorfer Drive, Peoria, IL 61614. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 139023 (Sub-9TA), filed May 22, 1979. Applicant: 2-G TRANSPORTATION, INC., 12589 Rhode Island Avenue South, Savage, MN 55369. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Beverages* from Minneapolis-St. Paul, MN and points in its commercial zone to points in IL and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Green Mountain, Inc., 340 Central Avenue, Osseo, MN 55369. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 1339973 (Sub-73TA), filed June 4, 1979. Applicant: J. H. WARE TRUCKING, INC., 909 Brown Street, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, Iowa 50309. *Electrical appliances, equipment, and parts,* BETWEEN Chattanooga, TN; Madisonville, KY; Searcy, AR; Rippon, WI; and Albion, MI, on the one hand, and, on the other, all points in the United States in and west of MT, WY, CO, and NM (except AK and HI), for 180 days. Supporting shipper(s): McGraw-Edison Company, 1275 Davis Road, Elgin, IL 60120. Send protests to: Vernon Coble, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, Missouri 64106.

MC 139973 (Sub-74TA), filed June 21, 1979. Applicant: J. H. WARE TRUCKING, INC., 909 Brown Street, P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, Myers & Knox, 600 Hubbel Bldg., Des Moines, IA 50309. (1) *Electrical appliances, equipment and parts, and poleline hardware; and* (2) *materials and supplies* used in the manufacture, distribution and sales of electrical appliances, equipment, parts and poleline hardware (except commodities in bulk), between Centralia, MO, on the one hand, and, on the other, points in the United States in and east of MT, WY, CO and NM. Supporting shipper(s): A. B. Chance Company, 210 North Allen Street, Centralia, MO 65240. Send protests to: Vernon V. Coble, D/S, I.C.C., 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 140563 (Sub-38TA), filed May 22, 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. *(1) Plumbers fittings, fixtures and supplies, vanities and vanity cabinets and plastic articles, and (2) materials, equipment and supplies used in the manufacture or distribution of commodities named in (1) above (except commodities in bulk)*

between the facilities of Universal-Rundle Corp. located at or near Monroe and Union Point, GA on the one hand, and, on the other, points in AL, DE, DC, FL, KY, MD, MS, NC, SC, TN, VA and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Universal-Rundle Corp., 217 N. Mill St., New Castle, PA 16103. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 140563 (Sub-39TA), filed June 6, 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. (1) *Boxes, pulpwood, other than corrugated,* from the facilities of Westvaco Corp. at or near Cleveland and Chattanooga, TN to points in AR, GA, IL, KS, KY, LA, MA, MD, MI, MO, NY, NC, OH, PA and TX and (2) *Materials, equipment and supplies used in the manufacture or distribution of commodities named in (1) above,* to the facilities of Westvaco Corp. at or near Cleveland and Chattanooga, TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Westvaco Corp., 299 Park Avenue, New York, NY 10017. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 140762 (Sub-2TA), filed June 4, 1979. Applicant: MOSAIC TRUCKING COMPANY, One Biondi Street, Cliffwood, NJ 07721. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. *Iron and steel, and iron and steel articles,* between the facilities of US STEEL at Fairless, PA on the one hand, and, on the other, points in CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Steel Corporation, Fairless Hills Shopping Center, Bldg. A, Fairless Hills, PA 19030. Send protests to: Robert J. Latarewicz, TR&TS, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 141252 (Sub-7TA), filed June 22, 1979. Applicant: PAN WESTERN CORPORATION, 4105 Las Lomas, Las Vegas, NV 89102. Representative: Richard Truman (same address as applicant). *Steel corrugated pipe, and coated steel corrugated pipe,* from Fontana, CA to Clark and Nye Counties, NV, Mohave, Conconino, and Navajo Counties, AZ, and Lehi, UT, for 180 days. Supporting shipper(s): Pacific Corrugated Pipe Co., 13680 Slover, Fontana, CA. Cheyenne Construction, Inc., 201 N. Cheyenne Ave., N. Las Vegas, NV, Frehner Construction, Co., Inc., 124 W. Brooks, N. Las Vegas, NV, Charlie Brown Construction, Inc., 7465 Buckskin, Las Vegas, NV. Send protests to: W. J. Huetig, DS, ICC, 203 Federal Bldg., Carson City, NV 89701.

MC 141622 (Sub-6TA), filed May 25, 1979. Applicant: H & W CARRIERS, INC., Box 73, Camargo, IL 61919. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Contract Carrier, Irregular Routes, beer,* from St. Paul and Minneapolis, MN; Fort Wayne, IN; Cincinnati, OH, to Mattoon and Springfield, IL for 180 days. An ETA has been granted for 90 days. Supporting shipper(s): L & B Distributing Company, 1917 Oak—P.O. Box 237, Mattoon, IL 61938. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 141723 (Sub-3TA), filed June 7, 1979. Applicant: FEDERALSBURG TRANSIT CO., INC., Davis Mill Pond Road, Rt. 1, Federalsburg, MD 21632. Representative: Brian S. Stern, 2425 Wilson Blvd., No. 327, Arlington, VA 22201. *Lumber, lumber products, and forest products (except those transportated in bulk, in tank vehicles),* between points in CT, DE, MA, ME, MD, NH, NJ, NY, PA, RI, VA, VT, and DC. Restricted to transportation of traffic originating at or destined to the factilities of Altantic Wood Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Charles H. Slingluff, Jr., Altantic Wood Industries, Inc., P.O. Box 358, Fords, NJ 08683. Send protests to: W. L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 142543 (Sub-4TA), filed June 4, 1979. Applicant: L. D. FONTAINE d.b.a. L. D. FONTAINE TRUCKING, 504 Riverview Blvd., Great Falls, MT 59404. Representative: L. D. Fontaine (same address as applicant). Linseed meal from ports of entry on the U.S.-Canada International Boundary line located in MT to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): Continental Grain Co., Culbertson, MT 59218. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 142672 (Sub-66TA), filed May 22, 1979. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, P.O. Box Drawer F, Mulberry, AR 72957. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Foodstuffs,* not frozen, from Stockton, Modesto and Ventura, CA to points in CT, MA, MD, NJ, NY and PA, for 180 days as a common carrier over irregular routes. Support shipper(s): Tillie Lewis Foods, Inc., P.O. Box Drawer J, Stockton, CA 95201. Send protests to: Williams H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 14672 (Sub-67TA), filed , 1979. Applicant: DAVID BENEUX PRODUCE AND TRUKCING, INC., P.O. Box Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Institutional furniture,* in cartons, from Charleston, AR to points in the United States (except AR, AK and HI), restricted to transportation of traffic originating at the facilities of Correll, Inc. at or near Charleston, AR, for 180 days as a common carrier over iregular routes. Support shipper(s): Correll, Inc., P.O. Box 417, Charleston, AR 72933. Send protests to: Williams H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 142743 (Sub-14TA), filed June 7, 1979. Applicant: FAST FREIGHT SYSTEM, INC., 118 N. Congress St., Jackson, MS 39205. Representative: Edwin M. Snyder, Sullivan and Leavitt, P.C., 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. *Metal and metal products and containers therefore and equipment, materials, and supplies used in the manufacturing of such commodities,* except commodities in bulk, between the facilities of Mueller Brass Co. at or near Covington, TN, on the one hand, and on the other, points in AL, AR, CT, FL, GA, IL, IA, KY, LA, MD, MA, MS, MO, OH, TX, VA, NJ, NY, WI, and MI, for 180 days. An underlying ETA seeks 90 days authority. Support shipper(s): Mueller Brass Co., 1925 Lapeer Ave., Pt. Huron, MI 48060. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 142772 (Sub-6TA), filed June 5, 1979. Applicant: HRDLICKA ENTERPRISES, INC., Route 7, Box 59, Chippewa Falls, WI 54729. Representative: Samuel Rubenstein and David Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Building materials, viz: building and roofing slabs, tile and panels, and related materials, parts, supplies and accessories* from Cornell, WI to Dallas, Tennessee Colony and Lewisville, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cornell Corporation, 808 South 3rd Street, Cornell, WI 54732. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 143223 (Sub-4TA), filed June 15, 1979. Applicant: CARL CRAWFORD,

d.b.a. Crawford Mobile Homes, North Rd., Houlton, ME 04730. Representative: Virginia E. Davis, One Memorial Circle, P.O. Box 986, Augusta, ME 04330. CONTRACT: IRREGULAR: *Modular homes* in initial movement in truckaway service from Pine Grove, PA to points in CT, MA, NH, NY, RI and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Newport Homes, a division of Apeco Corporation, Rt. 443, Pine Grove, PA 17963. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm. 303, Portland, ME 04101.

MC 143503 (Sub-20TA), filed June 19, 1979. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *New furniture, furnishings, and accessories*, from Boston, MA, and its commercial zone; Hartford, CT; Manchester, NH; Hyannis, MA; and Providence, RI, to points in Hartford, Tolland, Windham, and New London Counties, CT; Bennington and Windham Counties, VT; Sullivan, Cheshire, Merrimack, Hillsboro, Belknap, Rockingham, and Strafford Counties, NH; Albany, Columbia, Rensselaer, and Washington Counties, NY; Cumberland and York Counties, ME; RI; and MA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Scandinavian Design, Inc., 575 Worcester Road, Natick, MA 01760; Puritan Furniture Corporation, 111 Lenox Street, Norwood, MA 02602. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 143503 (Sub-21TA), filed June 19, 1979. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *New furniture, furnishings, and accessories*, between points in DE; Berks, Carbon, Chester, Dauphin, Delaware, Lancaster, Lebanon, Philadelphia, Lehigh, Monroe, Montgomery, Northhampton, Bucks, Schuykill, and York Counties, PA; Baltimore, Caroline, Cecil, Dorchester, Harford, Kent, Queen Annes, Talbot, Wicomico, and Worchester Counties and Baltimore City, MD; and NJ, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): J. B. Van Sciver Company, Delaware and Federal Streets, Camden, NJ 08101. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 143753 (Sub-4TA), filed May 16, 1979. Applicant: BOLES & FRANKLIN, INC., Rt. 2, Box 169, Weaverville, NC 28787. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Coal, in bulk, in dump vehicles*, from points in Clay County, IN to points in Roane County, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rockwood Direct Reduction, P.O. Box 510, Rockwood, TN 37854. Send protests to: D/S Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 143903 (Sub-3TA), filed May 1, 1979. Applicant: O'NEILL BROS. TRANSFER & STORAGE CO., 706 S.W. Commerical St., Peoria, IL 61602. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Contract Carrier, Irregular routes, sporting goods, toys, athletic footwear, sports apparell and other related recreactional items* from Peoria, IL to South Bend, Mishawaka and Merrillville, IL for the account of Brown's Sporting Goods for 180 days. Supporting shipper(s): Brown's Sporting Goods, 413 S.W. Adams, Peoria, IL 61602. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 144083 (Sub-11TA), filed June 4, 1979. Applicant: RALPH WALKER, INC., P.O. Box 3222, Jackson, MS 39207. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *New furniture* from the facilities of Shannon Chair Company at Houston, MS to points in AL, AR, FL, GA, IL, IN, KS, LA, MD, MO, NC, OH, SC, TN and TX, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Shannon Chair Company, 1st Avenue North, Houston, MS 38851. Send protests to: Alan Tarrant, D/S, ICC, Rm. 212, 145 E. Amite Bldg., Jackson, MS 39201.

MC 144122 (Sub-47TA), filed June 11, 1979. Applicant: CARRETTA TRUCKING, INC., South 160, Route 17 North, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front St., 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 freight forwarder bills of lading issued by Florida-Texas Freight, Inc., from Secaucus, NJ and Milford, CT to Dallas, Houston, and San Antonio, TX restricted to traffic moving from and to the facilities of Florida-Texas Freight, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Florida Texas Freight, Inc., 11405 North West 36th Avenue, Miami, FL 33167. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 144543 (Sub-3TA), filed June 21, 1979. Applicant: INTERNATIONAL CONSOLIDATORS, INC., 777 West 2nd Street, Pomona, CA 91769. Representative: Richard C. Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. *Building materials (except in bulk)*, between points in WA, AZ, OR, NM, CA, and TX (except Dallas, TX); and between points in NV, on the one hand, and, on the other, points in AZ, TX, NM, OR and WA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): There are approximately 7 shippers. Their statements may be examined at the Office listed below and at ICC Headquarters. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 144572 (Sub-19TA), filed June 20, 1979. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. Box G, Greeley, CO 80631. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver, CO 80202. *Such commodities as are dealt in by manufacturers and distributors of alcoholic beverages (except commodities in bulk, in tank vehicles)* from the facilities of Hueblein Spirits Group located at or near Hartford, CT to the facilities of Hueblein Spirits Group located at Menlo Park, CA; Paducah, KY and Allen Park, MI for 180 days. Underlying ETA filed seeks 90 days authority. Supporting shipper(s): Hueblein Spirits Group, 330 New Park Ave., Hartford, CT 06101. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 144682 (Sub-16TA), filed June 21, 1979. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75245. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75235. *Potatoes, sliced, uncooked (french fries) frozen, moving in mechanically refreigerated equipment* from points in WA, ID, and Clearfield, IA, Bettendorf, IA, Mount Airy, MD, Atlanta, GA, Mount Morris, NY, to Syossett, NY, Detroit, MI, Cleveland, OH, Atlanta, GA, Houston, TX, Miami, FL, Dallas, TX, Greensboro, NC, (See attached sheet) for 180 days. An underlying ETA for 90 days authority filed. Supporting shipper(s): Burger King, Inc., P.O. Box 520843, General Mail Facility, Miami, FL 88152. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 144682 (Sub-17TA), filed June 21, 1979. Applicant: R. R. STANLEY, 1738 Empire Central, Dallas, TX 75235. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Animal feed, feed ingredients, supplements, additives, and materials used in the manufacture and distribution of animal feed (except in bulk)* from Los Angeles, CA, and Columbus, OH, to points in TX, (Dallas, Ft. Worth, Houston, Austin, Waco, Lubbock, El Paso) for 180 days. An underlying ETA for 90 days authority filed. Supporting shipper(s): Kal Kan Foods, Inc., 3386 East 44th Street, Vernon, CA 90058. Send protests to: Opal M. Jones, Trans. Asst., I.C.C., Room 9A27 Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 144843 (Sub-3TA), filed May 29, 1979. Applicant: W. R. GRACE & CO., d.b.a. GRACE DISTRIBUTION SERVICES, P.O. Box 308, Duncan, SC 29334. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Contract carrier*, irregular routes: *Steel containers*, from Fenton, MO to Jacksonville, AR, under contract with U.S.S. Chemicals, Division of U.S. Steel Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U.S.S. Chemicals, 600 Grant Street, Pittsburgh, PA 15230. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 144953 (Sub-2TA), filed May 22, 1979. Applicant: MULLEN TRUCKING, LTD., 6204–A Burbank Road SE., Calgary, AB, Canada T2H 2C2. Representative: John T. Wirth, 717–17th Street, Suite 2600, Denver, CO 80202. *Used wooden railroad ties* from ports of entry on the International Boundary between the U.S. and Canada in ID and MT to points in AZ, CA, CO, ID, MT, NV, UT and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Skibber Enterprises, Box 347, Acme, AB, Canada. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings MT 59101.

MC 145072 (Sub-18TA), filed June 13, 1979. Applicant: M. S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Plastic articles, and medical or food service items, and materials, equipment and supplies utilized in the manufacture thereof*, between the facilities of the Vollrath Co. located at or near Arlington, TN and Galloway, TN, on the one hand, and, on the other, points in AL, FL, GA, IL, IA, KS, LA, MD, MA, MI, NJ, NY, OH, PA, SC and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vollrath Co., 11531 Gulfstream, Arlington, TN 38002. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 145102 (Sub-33TA), filed June 19, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Wayne Wilson, 150 E. Gilman St., Madison, WI 53703. *Paper and paper products* from Appleton, Biron, Brokaw, Green Bay, Kaukauna, Menasha, Port Edwards and Wisconsin Rapids, WI to Dubuque, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weber Paper Co., 137 Main St., Dubuque, IA 52001; and Wm. C. Brown Publishers, 2460 Kerper Blvd., Dubuque, IA 52001. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 145152 (Sub-81TA), filed May 25, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Foodstuffs* (except in bulk), from Weslaco, TX to points in AL, AR, AZ, CA, CO, IA, ID, IL, IN, KS, KY, LA, MI, MN, MO, MS, MT, ND, NE, NM, NV, OH, OK, OR, SD, TN, UT, WA, WI and WY, restricted to the transportation of traffic originating at the facilities of Texsun Corporation at or near Weslaco, TX, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Texsun Corporation, P.O. Box 327, Weslaco, TX 78596. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-82TA), filed May 31, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Paper and paper products* of natural or synthetic fiber, *casual furniture and electric lighting fixtures and equipment, materials* and supplies used in the production and distribution of the above products, from the facilities of Scott Paper Company located in (1) the state of WI to all points in AR, FL, IL, IN, IA, KS, MI, MN, MO and OH, and (2) Dover, DE, to all points in IL, IN, MI, OH and WI, and (3) Philadelphia, PA, to all points in AR, FL, GA, IL, LA, MI, MS, NC, SC, TN and TX, and (4) Between the facilities of Scott Paper Company, located in the state of AR, on the one hand, and on the other, points in GA, IL, MI, MO, NC, NJ, OH, PA, SC, TN, TX and WI, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-83TA), filed June 4, 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 Houston, TX to points in CA and NY, for 180 days as a common carrier over irregular routes. Supporting shippers(s): Tube-Line Corporation, 48–11 20th Avenue, Long Island City, NY 11105. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Arkansas 72201.

MC 145152 (Sub-84TA), filed June 6, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. (1) *Charcoal, charcoal briquettes, hickory chips, vermiculite, charcoal lighter fluid, compressed sawdust-wax impregnated fireplace logs*, and (2) *barbecue items and materials, equipment and supplies* used in the distribution of the commodities named in (1) above (except in bulk), from Dothan, AL to points in AZ, CA, CO, NM and TX; and from Burnside, KY to points in IL, IN, MI, OH and WI; and from Springfield, OR to points in AZ, CA, NV, UT and WA for 180 days as a common carrier over irregular routes. Supporting shipper(s): Kingsford Company, 940 Commonwealth Building, Louisville, KY 40201. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-85TA), filed June 6, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Petroleum, petroleum products and sound deadening compounds* (except in bulk), from the facilities of Pennzoil Corporation, at or near Karns City, New Kensington, Reno, Rouseville and Warren, PA; and Buffalo, NY, to Maryland Heights, MO, for 180 days as a common carrier over irregular routes.

Supporting shipper(s): Pennzoil Corporation, Drake Building, Oil City, PA 16301. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-86TA), filed May 21, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Such commodities* as are manufactured and distributed by and *materials, equipment and supplies* used in the manufacture, packing, distribution and sales of the R. T. French Company (except commodities in bulk) from Springfield, MO to points in AR, FL, IL, IN, KS, LA, MI, MS, NM, OH, OK and TX, restricted to the transportation of traffic orginating at the facilities of R. T. French Company, at or near Springfield, MO, for 180 days as a common carrier over irregular routes. Supporting shipper(s): R. T. French Company, 1 Mustard Street, Rochester, NY 14609. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-87TA), filed May 21, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Charcoal, charcoal briquettes, hickory chips, lighter fluid and related barbecue items,* from the facilities of Husky Industries, Inc., at or near Waupaca, WI and Isanti, MN, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the facilities of Husky Industries, Inc., for 180 days as a common carrier over irregular routes. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Drive Center East, Atlanta, GA 30346. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145152 (Sub-88TA), filed May 25, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Charcoal, charcoal briquettes, lighter fluid, hickory chips and related barbecue items,* from Gary, IN to points in the United States (except AK, HI and IN), restricted to the transportation of traffic originating at the facilities of Husky Industries, Inc., at or near Gary, IN, for 180 days as a common carrier over irregular routes. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145702 (Sub-2TA), filed June 8, 1979. Applicant: TRANSURFACE CARRIERS, INC., 6 Thayer Street, Northboro, MA 01532. Representative: Bernard P. Rome, 31 Milk St., Boston, MA 02109. *Contract carrier:* irregular routes: (1)(a) *such commodities as are used or dealt in by wholesale and retail chain stores* (except in bulk); (b) *such commodities as are used in the manufacture of food and beverage products* (except in bulk); (c) *such commodities as are used in the manufacture of industrial, pharmaceutical, agricultural, and household products* (except in bulk), from Groton, CT to points in AZ, AR, CA, CO, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, OH, OK, OR, PA, TN, TX, VA, WA, WV, WI, and DC: (2)(a) *such commodities as are used or dealt in by wholesale and retail chain stores* (except in bulk) and (b) *medical and health care products,* (except in bulk), from Parsippany, NJ to points in AR, CA, CO, CT, DE, GA, IL, IN, KS, KY, ME, MD, MA, MO, NH, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC; (3) *oxide of iron, lamp black, paint, barytes, silica, earth pigment and umber* (except in bulk), from Easton, PA to points in AR, CA, CT, FL, GA, IL, IN, KY, LA, MA, MI, MN, NJ, NY, NC, OH, OR, SC, TN, TX, and WI; (4) *oxide of iron, lamp black, paint, barytes, silica, earth pigment and umber* (except in bulk), from East St. Louis, IL to points in AL, AR, CA, CT, CO, FL, GA, IN, LA, MD, MA, MS, NJ, NM, NY, NC, OH, OR, PA, SC, TN, TX, VA, and WV; (5) *lime, limestone, and calcium carbonate* (except in bulk), from Adams, MA to points in AL, CA, CO, FL, GA, IL, IN, KS, KY, MD, MS, MI, MN, MO, NE, NC, PA, OH, SC, TN, TX and WI, under a continuing contract with Pfizer, Inc. of New York, NY for 180 days. An underlying ETA seeks 90 days' authority. Supporting shipper(s): Pfizer, Inc., 235 East 42nd Street, New York, NY 10017. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 145753 (Sub-2TA), filed June 6, 1979. Applicant: C&K BROKERAGE, INC., d.b.a. NORTHERN TRANSPORTATION, RD 1, Gouverneur, NY 13642. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Contract carrier, irregular routes: (1) *Printing paper* from Newton Falls, NY and its commercial zone to all points in and east of MN, IA, MO, AR, LA: and (2) *Materials and supplies (except in bulk) used in the manufacture and distribution thereof* from all points in and east of MN, IA, MO, AR, LA to Newton Falls, NY and its commercial zone. An underlying ETA seeks 90 days authority. Supporting shipper(s): Newton Falls Paper Mill, Inc., Newton Falls, NY 13666. Send protests to: ICC, P.O. Box 548, Montpelier, VT 05602.

MC 145863 (Sub-3TA), filed May 31, 1979. Applicant: LOUIS D. WEILAND AND RONALD K. TOWNS, d.b.a. T & W TRUCKING COMPANY, 1815 Twelfth Avenue North, Escanaba, MI 49829. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956. *Contract Carrier:* irregular routes: *Novelty Ice cream products and water ices* (other than in bulki) in mechanically refrigerated trailers, from Ocala, FL and Green Bay, WI to points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV and WI under continuing contract or contracts with Gold Bond Ice Cream, Inc., Green Bay, WI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gold Bond Ice Cream, Inc., 808 Packerland Drive, Green Bay, WI 54303. Send protests to: C. R. Flemming, D/S I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 145882 (Sub-2TA), filed May 29, 1979. Applicant: KUVASZOK TRANSPORT, INC., 1630 Rhonda Road, St. Joseph, MI 49085 Representative: J. Joseph Daly, P.O. Box 558, 610 Ship Street, St. Joseph, MI 49085. *Liquid Asphalt,* in bulk, in tank vehicles, from East Chicago, IN to Lawrence, Zeeland and Coldwater, MI and points in Berrien County, MI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John G. Yerington Company, 1055 North Shore Drive, Benton Harbor, MI 49022; Consumers Asphalt & Concrete Co., 2350 Pipestone Rd., Benton Harbor, MI 49022; Energy Cooperative, Inc., 6300 River Road, Rosemont, IL 60018. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 146293 (Sub-23TA), filed May 25, 1979. Applicant: REGAL TRUCKING COMPANY, INC., 95 Lawrenceville Industrial Park Circle, NE, Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 PHoenix Boulevard, Atlanta, GA 30349. *Household products chemicals,*

paint and related articles, materials and equipment and supplies used in Mfg., sales and dist. of above from Atlanta, GA to Dallas, TX and Albuquerque, NM for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zep Manufacturing Co., Div. National Service Ind., 1310 Seaboard Ind. Boulevard, Atlanta, GA. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree Street, N.W., Rm. 300, Atlanta, GA 30309.

MC 146293 (Sub-24TA), filed May 15, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Park Circle, NE, Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Portable electric heaters, humidifiers, heat exchangers, portable fire places, parts and accessories, equipment, materials and supplies between Varona & Tupelo, MS on the one hand and GA, NC, TN, TX, AL, PA, OH, IN, NY, SC, VA, DE, CT, MA, IL, NJ, MD, KY, MO, WI, MN, MI, on the other hand for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arvin Industries, 1607 Central Avenue, Columbus, IN 47201. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree Street, NW., R. 300, Atlanta, GA 30309.

MC 146293 (Sub-25TA), filed May 17, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Industrial Park Circle, NE, Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *General commodities (except commodities in bulk, Class A and B explosives, household goods as defined by the Commission),* (1) from Atlanta, GA, Charlotte & Greensboro, NC, Greenville, SC, Miami, FL & Memphis, TN to CA, AZ, WA, OR, NV (2) from CA, AZ, WA, OR, NV to Atlanta, GA, Charlotte & Greensboro, NC, Greenville, SC, Miami, FL and Memphis, TN (3) from NC, SC, GA and TN to CA, AZ, UT and NV (4) from CA to NC, SC, GA and TN for 180 days. Restricted to traffic moving on a freight forwarder Bill of Lading. An underlying ETA seeks 90 days authority. Supporting shippers(s): Arrow Lifschultz Freight Forwarder, 1540 Marietta Road, NW, Atlanta, GA 30318; Westransco Freight Co., 341 John Street, NW, Atlanta, GA 30329. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree Street, NW, Rm. 300, Atlanta, GA 30309.

MC 146402 (Sub-3TA), filed June 12, 1979. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: John Duncan Varda, 121 South Pinckney Street, Madison, WI 53703. *Paper and paper products* (except in bulk), *and products* (except in bulk) *produced or distributed by manufacturers and converters of paper and paper products,* from the facilities of Neekoosa Paper, Inc. in Little River County, AR to points in AL on and north of Hwy 80, DE, IL, IN, points in IA on and east of Hwy 61, KY, MD, points in MS on and north of Hwy 80, points in MI on and sourth of Hwy 21; points in MO on and east of Hwy 61; NJ, NY, OH, PA, points in TN on and west of Hwy I–24, WV, and WI, for 180 days. Supporting shipper(s): Nekoosa Papers, Inc., 100 Wisconsin River Drive, Port Edwards, WI 54469. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 146522 (Sub-3TA), filed May 11, 1979. Applicant: ADRIAN CARRIERS, INC., 1826 Rockingham Road, Davenport, IA 52808. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract authority (1) *Bakery goods,* from Davenport, IA and Carrollton, MO to points in CT, IA, IL, IN, MI, MN, MO, OK, OH, TN, and WI, and (2) *materials, ingredients, and supplies used in the manufacture, distribution and sale of the commodities named in (1) above (except commodities in bulk)* from points in CT, IA, IL, IN, MI, MN, MO, OK, OH, TN, and WI to Davenport, IA and Carrollton, MO for 180 days. Restricted in Parts (1) and (2) above to a transportation service performed pursuant to continuing contract(s) with Capitol Baking Corp. An underlying ETA seeks 90 days authority. Supporting shippers(s): Capitol Baking Corp., 402 E. 4th Street, Davenport, IA 52801. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 146662 (Sub-1TA), filed April 3, 1979 previously published in the FR issue of June 21, 1979, and republished as corrected this issue. Applicant: GERALD E. VEINE AND PATRICK M. CUSACK, 1123 Fairlawn, St. Joseph, MI 49085. Representative: Gerald E. Veine, 1123 Fairlawn, St. Joseph, MI 49085. *General commodities,* except those of unusual value, classes A and B Explosives, Household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; (1) Between Benton Harbor, Kalamazoo, South Haven, Dowagiac, MI, South Bend, IN, on the one hand and on the other, the Willow Run Airport at Ypsilanti, MI. (2) between points in Berrien, Cass, Van Buren, and Kalamazoo Counties in MI, St. Joseph County, IN, on the one hand, and on the other, O'Hare and Midway Airports, Chicago, IL, Willow Run and Detroit Metropolitan Airports, Wayne County, MI and Benton Harbor Airport, Berrien County, MI and South Bend Airport, St. Joseph County, IN. (This corrects Sub-1TA published June 21, 1979 to show the territorial description.) for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Avion Service Department, 1576 E Empire Avenue, Benton Harbor, MI; Gersonde Equipment Co., Inc., 2450 South M–139, P.O. Box 1007, Benton Harbor, MI; Gast Manufacturers, P.O. Box 97, Benton Harbor, MI 49022; Heath Company, Hilltop Road, St. Joseph, MI 49085. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 14763 (Sub-2TA), filed May 29, 1979. Applicant: IOWA-CALIFORNIA EXPRESS, INC., 4455 South 110th Street, Omaha, NE 68137. Representative: Norman Drennen, (same address as above). *Lumber, shakes, shingles,* from points in WA, OR, and CA to points in KS, CO, TX, OK, IA, WY, and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Stricks, 1631 Main, Goodland, KS 67735. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th Street, Omaha, NE 68102.

MC 146763 (Sub-3TA), filed May 24, 1979. Applicant: IOWA-CALIFORNIA EXPRESS, INC., 4455 South 110th Street, Omaha, NE 68137. Representative: Norman C. Drennen (same address as applicant). *Chemicals, materials, equipment, and supplies,* from Omaha, NE to points in CO, CA, ID, MT, NV, NM, UT, OR, AZ, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nox-Crete Chemicals, Inc., 1444 South 20th St., Omaha, NE. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 146763 (Sub-4TA), filed June 8, 1979. Applicant: IOWA-CALIFORNIA EXPRESS, INC., 4455 South 110th Street, Omaha, Nebraska 68137. Representative: Norman Drennen (same as above). *Chemicals, materials, equipment and supplies* from Omaha, NE to Auburn, Yakima, Spokane, Seattle, WA; Santa Fe Springs, Emeryvillle, San Francisco, Los Angeles, CA; Eugene, Portland, OR; Twin Falls, Boise, Pocatello, Idaho Falls, ID for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nox Crete Chemicals Inc., 1444 South 20th

Street, Omaha, NE 68108. C. Gary Linn, President. Send protests to: D/S Carroll Russell, ICC, Suits 620, 110 No. 14th St., Omaha, NE 68102.

MC 146852 (Sub-1TA), filed May 2, 1979. Applicant: JOHN SATTERFIELD d.b.a. QUALITY FARMS, 779 A Fort St., Detroit, MI 48203. Representative: Same as applicant. *Contract carrier, irregular routes, prepared frozen food, ingredients, equipment and packaging materials used in the manufacture and distribution of prepared frozen foods,* between Red Hook and Germantown, NY, on the one hand, and on the other hand, points in the states of MA, CT, PA, NJ, OH, MI, IL, IN, WI, MO, KY, TN, GA, MC, SC, AL, LA, MS, FL, MD, VA, WV, TX, AR, OK, DE and DC for the account of Orchard Hill Farms, Inc. for 180 days, and ETA has been granted for 90 days. Supporting shipper(s): Orchard Hill Farms, Inc., 68 S. Broadway, Red Hook, NY 12571. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 146962 (Sub-1TA), filed 23, 1979. Applicant: MULDER TRUCKING COMPANY, Prinsburg, MN 56281. Representative: Samuel Rubenstein and David Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Contractors machinery, equipment and supplies, including road construction equipment,* from Prinsburg and Worthington, MN to points in WY and Sisseton, SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Duininck Bros. & Gilchrist, Prinsburg, MN 56281. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 147043 (Sub-1TA), filed May 25, 1979. Applicant: JAMES LOWELL BERGEN, d.b.a., BERGEN'S TRUCKING COMPANY, 1045 W. Rialto Avenue, Rialto, CA 92376. Representative: James Lowell Bergen (same as applicant). *General commodities (except commodities in bulk)* having a prior or subsequent out of state movement, between points and places in Los Angeles, Orange, Riverside and San Bernadino Counties, CA, on the one hand, and, on the other, Idyllwild, CA and its Commercial Zone, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): There are approximately 14 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 147093 (Sub-1TA), filed May 29, 1979. Applicant: B & L TRUCK LINE, INC., Highway 125 South, Middleton, TN 38052. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Clay, crushed, ground or pulverized, in bags,* from the plantsite of Maltan, Inc., at or near Middleton, TN to MO, TN, MS, AR, AL, TX, KY, LA, FL, IN, IL, OK, CO, MI, WI, MN, GA, NC, VA, WV, PA, MD, NY, and MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Maltan, Inc., Hwy 125 South, Middleton, TN 38052. Send protests to: Floyd A. Johnson, D/S, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 147102 (Sub-1TA), filed April 26, 1979. Applicant: E.T.I. COMPANY, P.O. Box 638, Easton, PA 18042. Representative: Rick A. Rude, 1730 Rhode Island Ave., NW., Washington, DC 20036. *Such commodities as are dealt in or used by manufacturers or distributors of industrial machinery and equipment* between the facilities of Ingersol-Rand Co., located at Allentown, PA and Phillipsburg, NJ, on the one hand, and, on the other, points in CN, DE, DC, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ingersol-Rand Co., Turbo Products Div., Memorial Parkway, Phillipsburg, NJ 08865; Ingersol-Rand Co., SPAD Div., No. 1 Pump Pl., Allentown, PA 18105. Send protests to: ICC, Fed. Res. Bank Bldg., Room 620, 101 N. 7th St., Phila., PA 19106.

MC 147363 (Sub-1TA), filed June 5, 1979. Applicant: TAMWAY CORPORATION, 401 Poinsettia Drive, Simpsonville, SC 29681. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. *Contract Carrier;* irregular routes: *Finished shirts, piece goods, and packing materials,* between the facilities of Raycord Company, Inc., at or near Spartanburg, SC, on the one hand, and, on the other, Clayton, GA, under a continuing contract or contracts with Raycord Company, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Raycord Company, Inc., Box 651, Spartanburg, SC 29304. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 147103 (Sub-1TA), filed June 8, 1979. Applicant: DONALD E. GRIFFIN d.b.a., S & G CONTRACT CARRIERS, 875 Meadow Street, Chicopee, Massachusetts 01013. Representative: Same. Contract carrier: irregular routes: *Commodities as are dealt in by warehousing and distribution centers,* between points in ME, NH, VT, CT, MA, RI, NJ and Suffolk, Nassau, Westchester, Kings, Queens, Richmond, Bronx, Rockland, Putnam, Dutchess, Columbia, Rensselaer, Washington, Warren, Essex, Clinton, Saratoga, Albany, Green, Uster, Orange, Schenectady Counties, NY, under contract with Pioneer Valley Distribution Center, Inc., for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): Pioneer Valley Distribution Center, Inc., 875 Meadow Street, Chicopee, MA 01013. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 147222 (Sub-1TA), filed May 15, 1979. Applicant: UNITED TRAILER CARRIERS, INC., 475 North Ave., NW, Atlanta, GA 30309. Representative: Robert E. Born, Suite 508, 1447 Peachtree Street, NE, Atlanta, GA 30309. *Contract carrier: Irregular routes: Trailers and semi-trailers, designed for transporting freight, and parts and accessories for trailers and semi-trailers, designed for transporting freight* from Savannah, GA to points in NC, SC, Jacksonville, Tampa, Orlando and Miami, FL, Mobile and Birmingham, AL, Jackson, MS, Richmond, VA and Knoxville, Memphis, and Nashville, TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Great Dane Trailers, Inc., P.O. Box 67, Savannah, GA 31402. Send protests to: Sara K. Davis, T/A, ICC 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 147232 (Sub-2TA), filed May 23, 1979. Applicant: A. L. SMITH TRUCKING, INC., 8984 Murphy Rd., Versailles, OH 45380. Representative: James Duvall, 220 W. Bridge St., Dublin, OH 43017. *Iron and steel articles,* from the facilities of Inland Steel Company at East Chicago, IN, to points in OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Inland Steel Company, 30 West Monroe St., Chicago, IL 60603. Send protests to: D/S, I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 147253 (Sub-1TA), filed June 8, 1979. Applicant: LANDMARK INDUSTRIES, INC., East Main Street, P.O. Box 9, Landmark, Manitoba, Canada R0A 0X0. Representative: Randall Peter Wohlgemuth, P.O. Box 88, St. Annes, Manitoba Canada. *Contract carrier:* regular routes: Liquid nitrogen

fertilizer, in tank vehicles, from Grand Forks, ND, via Interstate 29 to port of entry on the International Boundary Line at or near Pembina, ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Agrico Chemical Company, P.O. Box 3166, Tulsa, OK 74101. Send protests to: H. E. Farsdale, DS, ICC, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 147292 (Sub-1TA), filed June 19, 1979. Applicant: PHILIP TRUCKING CO., Country Estates, Townsend, Massachusetts 01469. Representative: Patrick A. Doyle, 60 Robbins Road, Springfield, MA 01104. Contract carrier: irregular routes: *metal, iron, waste materials and exclusive in all types of scrap material including recycled scrap*, from MA to points in NY, ME, NH, VT, CT, RI, OH, PA, NJ and MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Guber & Sherman, Inc., 58 Cambridge Street, Cambridge, MA 02141. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 147362 (Sub-1TA), filed May 30, 1979. Applicant: BISHOP MOTOR FREIGHT, INC., Rural Route No. 1, Laclede, Missouri 64651. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore Avenue, Kansas City, MO 64105. Contract, irregular route authority *Plastic Articles, NOI*, between Gardner, Kansas and points in CT, IL, IN, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Molding, Inc., 800 North Center, Gardner, Kansas 66030. Send protests to: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 147413 (Sub-1TA), filed June 13, 1979. Applicant: SUNRICH TRANSPORTATION COMPANY, 303 South Santa Fe, Pueblo, CO 81002. Representative: William J. Lippman, 50 South Steele Street, Suite 330, Denver, CO 80209. *Contract—irregular—Meats, meat products and meat by-products, and articles distributed by meat packing houses as described in Sec. A and C of App. I to the report in Descriptions in M.C.C. 61 M.C.C. 209 and 766*, between Pueblo, CO on the one hand, and, on the other, points in AZ, CA, and TX. Restricted to transportation of traffic originating at or destined to facilities used by Alpha Beta Packing Co. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alpha Beta Packing Company, 303 So. Santa Fe Ave., Pueblo, CO 81002. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

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BILLING CODE 7035-01-M

[Notice No. 116]

Motor Carrier Temporary Authority Applications

June 26, 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.

By the Commission.

H. G. Homme, Jr.,

Secretary.

MC 2253 (Sub-98TA), filed May 24, 1979. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, P.O. Box 697, Cherryville, NC 28021. Representative: J. S. McCallie, P.O. Box 697, Cherryville, NC 28021. *Foodstuffs* from Napoleon, OH to MD and VA, for 180 days. Supporting shipper(s): Campbell Soup Company, East Maumee Ave., Napoleon, OH 43545. Send protests to: Terrell Price, 800 Briar Creek Rd.—Rm. CC516 , Mart Office Building, Charlotte, NC 28205.

MC 2253 (Sub-99TA), filed May 23, 1979. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, P.O. Box 697, Cherryville, NC 28021. Representative: J. S. McCallie (same as applicant). *Iron and steel articles* between the Chicago, Illinois commercial zone, on the one hand, and, on the other, points in AL, KY, LA, MI, MS, NY, OH, PA, TN and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are approximately 13 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Terrell Price, 800 Briar Creek Rd.—Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 4483 (Sub-25TA), filed June 20, 1979. Applicant: MONSON DRAY LINE, INC., R. R. No. 1, Red Wing, MN 55066. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Dextrine, gluten, grits and starch* from the United States-Canada border at or near Grand Portage, MN to points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Industrial Grain Products, P.O. Box 6089, Montreal, Quebec, Canada H3C-3H1. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 10343 (Sub-35TA), filed June 22, 1979. Applicant: CHURCHILL TRUCK LINES, INC., U.S. Hwy 36 West, P.O. Box 250, Chillicothe, MO 64601. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, or those requiring special equipment), (1) Between McAlester, OK and Ft. Smith, AR and points in their respective commercial zones, serving no intermediate points: (a) from McAlester, OK over OK Hwy 31 to junction U.S. Hwy 271, then over U.S. Hwy 271 to Ft. Smith, AR, and return over the same route, (b) from McAlester, OK over Indian Nation Turnpike to

junction Interstate Hwy 40 then over Interstate Hwy 40 to Ft. Smith, AR, and return over the same route; (2) between Muskogee, OK and Memphis, TN and points in their respective commercial zones, serving the intermediate points of Ft. Smith and Little Rock, AR and points in their respective commercial zones, and serving the junction of Interstate Hwy 40 and U.S. Hwy 64 (near Conway, AR) for purposes of joinder only: (a) from Muskogee, OK over U.S. Hwy 64 to junction OK Hwy 2, then over OK Hwy 2 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, TN, and return over the same route, (b) from Muskogee OK over Muskogee Turnpike to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, TN, and return over the same route; (3) between Kansas City, MO and Ft. Smith, AR and points in their respective commercial zones, serving the intermediate points of Bentonville and Rogers, AR and points in their respective commercial zones, and serving the junction of Interstate Hwy 44 and U.S. Hwy Alternate 71 for purposes of joinder only: from Kansas City, MO over Interstate Hwy 435 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction U.S. Hwy Alternate 71, then over U.S. Hwy Alternate 71 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Ft. Smith, AR, and return over the same route; (4) between Springfield, MO and Little Rock, AR and points in their respective commercial zones, serving no intermediate points but serving the junction of AR Hwy 124 and U.S. Hwy 65 and the junction of Interstate Hwy 40 and U.S. Hwy 64 (near Conway, AR) for purposes of joinder only: from Springfield, MO over U.S. Hwy 65 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Little Rock, AR, and return over the same route; (5) between Kansas City, MO and Springfield, MO serving no intermediate points and serving the termini for purposes of joinder only: from Kansas City, MO over Interstate Hwy 435 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction MO Hwy 7, then over MO Hwy 7 to junction MO Hwy 13, then over MO Hwy 13 to Springfield, MO, and return over the same route; (6) between Springfield, MO and points in its commercial zone, on the one hand, and, on the other, the junction of Interstate Hwy 44 and U.S. Hwy Alternate 71, serving no intermediate points, and serving the junction for purposes of joinder only: from Springfield, MO over Interstate Hwy 44 to junction U.S. Hwy Alternate 71, and return over the same route; (7) between St. Louis, MO and points in its commercial zone, on the one hand, and, on the other, Springfield, MO, serving no intermediate points and serving Springfield for purposes of joinder only: from St. Louis, MO over Interstate Hwy 44 to Springfield, MO, and return over the same route; (8) between Springfield, MO and Memphis, TN and points in their respective commercial zones, serving no intermediate points: from Springfield, MO over U.S. Hwy 60 to junction U.S. Hwy 63, then over U.S. Hwy 63 to junction Interstate Hwy 55, then over Interstate Hwy 55 to Memphis, TN, and return over the same route; (9) between St. Louis, MO and Little Rock, AR and points in their respective commercial zones, serving Searcy, AR and points in its commercial zone as an off-route point, and serving the junction of U.S. Hwy 67 and AR Hwy 36 and the junction of U.S. Hwy 67 and U.S. Hwy 64 for purposes of joinder only: from St. Louis, MO over interstate Hwy 55 to junction U.S. Hwy 67, then over U.S. Hwy 67 to Little Rock, AR, and return over the same route; (10) between St. Louis, MO and Memphis, TN, and points in their respective commercial zones, serving no intermediate points: from St. Louis, MO over Interstate Hwy 55 to Memphis, TN, and return over the same route; (11) between Dallas, TX and Little Rock, AR and points in their respective commercial zones, serving no intermediate points: from Dallas, TX over Interstate Hwy 30 to Little Rock, AR and return over the same route; (12) between junction Interstate Hwy 40 and U.S. Hwy 64 and junction U.S. Hwy 64 and U.S. Hwy 67, serving no intermedate points and serving the junctions for purposes of joinder only: from junction Interstate Hwy 40 and U.S. Hwy 64 (near Conway, AR) over U.S. Hwy 64 to junction U.S. Hwy 64 and U.S. Hwy 67, and return over the same route; (13) between junction U.S. Hwy 65 and AR Hwy 124 and junction AR Hwy 36 and U.S. Hwy 67, serving the intermediate point of Searcy, AR and points in its commercial zone, and serving the junctions for purposes of joinder only: From junction U.S. Hwy 65 and AR Hwy 124 over AR Hwy 124 to junction AR Hwy 36, then over AR Hwy 36 to junction U.S. Hwy 67, and return over the same route, for 180 days. NOTE: Applicant proposes to tack all of the authority listed in Routes (1) through (13) so as to provide through service as well as tacking its existing authority with all of the routes listed in (1) through (13) above. Applicant also seeks commercial zone authority for all of the points listed above except those to be served for purposes of joinder only. There are 156 supporting shippers which can be viewed at the field office in Kansas City. Send protests to Vernon Coble, District Supervisor, 6th Floor, 911 Walnut Street, Kansas City, MO 64106.

MC 11592 (Sub-27TA), filed May 24, 1979. Applicant: BEST REFRIGERATED EXPRESS, INC., P.O. Box 7365, Omaha, NE 68107. Representative: F. E. Myers (same address as above). *Such commodities as are dealt in by wholesale and retail hardware, department, agricultural supply and motor vehicle parts and supplies stores, and by wholesale, retail and chain grocery and food business houses (except commodities in bulk),* from the facilities of New England Shipping Association Cooperative or from the facilities of its members located in MA; Curwensville, PA; Willsboro, NY; Burlington and St. Albans, VT to points in IA, IL, IN, KY, KS, MI, MN, MO, NE, OH, SD, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): New England Shipping Association Cooperative, 1029 Pearl St., Brockton, MA 02403. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 11592 (Sub-28TA), filed June 19, 1979. Applicant: BEST REFRIGERATED EXPRESS, INC., Room 824, Livestock Exchange Building, P.O. Box 7365, Omaha, NE 68107. Representative: Frank E. Myers (same address as above). *Meats, meat products, meat by-products, and articles distributed by meat packinghouses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carriers Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Omaha, NE to points in IL, IN, OH, MI, WI, and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Wilson Foods Corporation, 4302 So. 30th St., Omaha, NE 68107; (2) Dubuque Packing, 4003 Dahlman Ave., Omaha, NE 68107; (3) John Roth & Son, Inc., 42nd & T Streets, Omaha, NE; (4) Cornhusker Packing Co., 4436 Dahlman Blvd., Omaha, NE 68107; (5) Northern States Beef, Inc., 3435 Gomez Ave., Omaha, NE 68107; (6) J. F. O'Neill Packing Co., 3601 "L" St., Omaha, NE 68107; (7) Lakin Meat Processors, 8990 West Dodge Rd., Omaha, NE; (8) Omaha Porker's Inc., 4410 So. 36th, Omaha, NE; and (9) Greater Omaha Packing Co., 5100 South 26th St., Omaha, NE. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.*

MC 11722 (Sub-61TA), filed May 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. (1) Fertilizers, except in bulk in tank vehicles from Sacramento, Berkeley and Pittsburg, CA to points in OR in WA. (2) Aluminum plate and sheet from the plantsite of Kaiser Aluminum & Chemical Corp. at Trentwood, WA to points in Los Angeles, Orange, San Bernardino, San Francisco, Contra Costa, Alameda, Solano, Santa Clara and Sacramento Counties, CA, for 180 days. A corresponding permanent will be filed. Supporting Shipper(s): Wilson & Geo. Meyer & Co., 318 Queen Ann Avenue N., Seattle, WA 98109. Kaiser Aluminum & Chemical Corp., 300 Lakeside Drive, Oakland, CA 94643. Send protests to: R. V. Dubay, D/S, I.C.C., 114 Pioneer Courthouse, Portland, OR 97204.

MC 16872 (Sub-21TA), filed June 11, 1979. Applicant: WILLIAM MIRRER d.b.a., MIRRER's TRUCKING CO., 100 East 25th Street, Paterson, NJ 07514. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Lawn mowers, tractors, snow blowers and accessories, materials, equipment and supplies used in the sale of the foregoing*, from Decatur, GA and Ft Worth, TX to Kenvil, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): KPM Distributors, 926 Route 46, Kenvil, NJ 07847. Send protests to: Joel Morrows, D/S, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 16903 (Sub-71TA), filed May 31, 1979. Applicant: NOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN. Representative: Donald W. Smith, Suite 945–9000 Keystone Crossing, Indianapolis, IN 46240. *Iron and steel articles* from the facilities of Jones & Laughlin Steel Corporation at or near Youngstown, OH to points in IN on and south of IN Highway 28 for 180 days. Supporting Shipper: Jones and Laughlin Steel Corporation, Room 121, 1600 W. Carson St., Pittsburgh, PA 15263. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 32882 (Sub-116TA), filed May 23, 1979. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, 3841 N. Columbia Boulevard, Portland, OR 97217. Representative: David J. Lister, 3841 N. Columbia Boulevard, P.O. Box 17039, Portland, OR 97217. Buildings, complete, K. D. or in sections, building sections and building panels and metal pre-fab structural components and panels from Utah County, UT to points in CA, OR, WA, ID, NV, AZ, MT, WY and CO, for 180 days. A corresponding ETA, MC 32882 R–27 was granted 5/24/79 for 30 + 2, Expires August 21, 1979. A corresponding permanent is pending. Supporting Shipper(s): Kirby Building Systems, Inc., 1550 Kirby Lane, Spanish Fork, UT 84660. Send protests to: R. V. Dubay, I.C.C., 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 35882 (Sub-3TA), filed June 15, 1979. Applicant: BRANDER BUS LINE, INC., 20 Slater Street, Rehoboth, MA 02769. Representative: Lester E. Brander, (same address as applicant). *Common carrier:* regular route: Passengers and their baggage, and express packages between New Bedford, MA and Boston, MA serving all intermediate points: From New Bedford, MA over Hwy 140, then over Hwy 24, then over Hwy 128, then over Hwy 3 to Boston, MA and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): National Travel, Inc. d.b.a., New Bedford Bus Terminal, 725 Pleasant Street, New Bedford, MA 02740. Send protests to: Gerald H. Curry, D/S, ICC, 24 Weybosset Street, Room 102, Providence, RI 02903.

MC 61403 (Sub-262TA), filed May 24, 1979. Applicant: THE MASON AND DIXON TANK LINES, INC., Highway 11–W, Kingsport, TN 37662. Representative: James P. Ray, (same address as applicant). *Liquid synthetic latex and resins, in bulk*, from Union Chemicals Div., Union Oil Company of California at Charlotte, NC to points in AL, DE, FL, GA, KY, MD, MS, NJ, NY, OH, PA, SC, TN, VA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Union Chemicals Division, 1345 N. Meacham Road, Schaumburg, IL 60196. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 69492 (Sub-73TA), filed June 7, 1979. Applicant: HENRY EDWARDS d.b.a., HENRY EDWARDS TRUCKING CO., P.O. Box 97, Clinton, KY 42031. Representative: Henry Edward Seaton, 929 Pennsylvania Building, 13th and Pennsylvania Avenue N.W., Washington, D.C. 20004. *Malt beverages* from Evansville, IN to Blytheville, West Memphis, Helena and Paragould, AR and Memphis, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are four (4) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof may be examined at the field office named below. Send protests to: Floyd A. Johnson, District Supervisor Interstate Commerce Commission 100 North Main Building—Suite 2006 100 North Main Street, Memphis, TN 38103.

MC 64932 (Sub-601TA), filed June 5, 1979. Applicant: Rogers Cartage Co., 10735 South Cicero Avenue, Oak Lawn, IL 60453. Representative: William Farrell, (same address as applicant). *Liquid styrene*, in bulk, in tank vehicles, from Baton Rouge, LA and Carville, LA to Calumet City, IL for 180 days. ETA was granted for 90 days authority. Supporting Shipper(s): Ashland Chemical Co., P.O. Box 2219, Columbus, OH 43216. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 71593 (Sub-34TA), filed June 4, 1979. Applicant: FORWARDERS TRANSPORT INC., 1608 East Second Street, Scotch Plains, NJ 07076. Representative: Charles J. William, 1815 Front Street, Scotch Plains, NJ 07076. Such commodities as are manufactured, processed, distrubuted, or dealt in by manufacturers or converters of paper and paper products (except commodities in bulk), from Chillicothe and Scholeys, OH to points in CT, MA, NJ, NY, and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Mead Corp., Courthouse Plaza N.E., Dayton, OH 45463. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 71593 (Sub-35TA), filed June 1, 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), from Appleton, Locks, Kaukauna, Kimberly, Menasha, Neenah, Nekoosa, Oshkosh, Stevens Point, Port Edwards, Biron and Wisconsin Rapids, WI to New Haven, CT, Boston and Springfield, MA, Newark, NJ, New York, NY, and Philadelphia, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): ABC Trans National Transport, Inc., 201 Eleventh Avenue, New York, NY 10001. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 71593 (Sub-36TA), filed June 12, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second Street, Scotch Plains, NJ 07076. Representative: John Duncan Varda, 121

South Pinckney Street, Madison, WI 53703. Paper and paper products (except in bulk) produced or distributed by manufacturers and converters of paper and products from the facilities of Nekoosa Papers Inc. in Little River County, AR to points in AZ, CA, CO, CT, DE, DC, IA, IL, IN, KY, MD, ME, MA, MI, MN, NV, NH, NJ, NY, OH, OR, PA, RI, UT, VA, VT, WA, and WI, for 180 days. Supporting Shipper(s): Nekoosa Papers Inc., 100 Wisconsin River Drive, Port Edwards, WI 54469. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 71592 (Sub-6TA), filed June 13, 1979. Applicant: CHARLES T. BROWN TRUCK LINES, INC., 1208 Buff Street, Greensboro, NC 27406. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Iron and steel articles and contractors equipment* between points in NC, on the one hand, and on the other, points in SC and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 10 supporting shippers. Their statements may be examined at the office listed below or Headquarters. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 80653 (Sub-19TA), filed May 23, 1979. Applicant: DAVID GRAHAM CO., P.O. Box 254, Levittown, PA 19059. Representative: Richard C. McGinnis, 711 Washington Building, Washington, DC 20005. *Iron and steel articles* from the facilities of Empire-Detroit Steel Division, Cyclops Corp. at Dover, OH, to pts. in VA, NJ, NY, and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Empire-Detroit Steel Division, Cyclops Corp., 137 Iron Avenue, Dover, OH 44622. Send protests to: I.C.C., Federal Reserve Bank Building, 101 N. 7th Street, Room 620, Philadelphia, PA 19106.

MC 82492 (Sub-241TA), filed June 20, 1979. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Dewey R. Marselle, 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Meats, meat products and articles distributed by meat packinghouses as described in Motor Carrier Certificate 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Swift & Company at East St. Louis and Madison, IL to points in KY. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift & Company, 115 W. Jackson Blvd, Chicago, IL 60604. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 96622 (Sub-4TA), filed May 14, 1979. Applicant: PEERLESS TRUCKING CO., 5833 South Malt Avenue, City of Commerce, CA 90040. Representative: Robert Fuller, 13215 East Penn Street, Suite 310, Whittier, CA 90602. *Rail carloads, ship's containerloads, and trailerloads containing consolidations of general commodities (except those of unusual value, explosives, livestock, household goods as defined by the Commission, commodities requiring special equipment, and commodities in bulk), arriving for unloading, segregation into individual shipments, and distribution delivery,* from rail spurs and freight docks at Applicant's terminal facilities located in the commercial zone of Los Angeles, CA to points and places in San Diego County, CA and in and south of Sacramento County, CA, except those which are more than 20 miles east of the U.S. Hwy 99 and those which Applicant serves as authorized in MC–96622 and Subs, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are approximately 5 supporting shippers. Their statements may be examined at the address listed below and Headquarters. Send protests to: Irene Carlos, P.O. Box 1551, Los Angeles, CA 90053.

MC 98952 (Sub-71TA), filed June 14, 1979. Applicant: GENERAL TRANSFER CO., 2880 N. Woodford Street, Decatur, IL 62526. Representative: Charles Carnahan, Jr. (same address as applicant). *Chemical (except liquefied natural gas) and polyethylene resins, in bulk, in tank or hopper type vehicles,* from Tuscola, IL to Boulder, CO restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations for 180 days. An ETA has been granted for 90 days. Supporting Shipper(s): U.S. Industrial Chemicals Co., P.O. Box 218, Tuscola, IL 61953. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 99532 (Sub-5TA), filed June 13, 1979. Applicant: ARNIE'S MOTOR FREIGHT, INC., 701 First Avenue, N., Altoona, IA 50009. Representative: Russell H. Wilson, Attorney, 3839 Merle Hay Road, Suite 200, Des Moines, IA 50310. *General commodities (except those of unusual value, Class A and B explosives, household goods, commodities in bulk, and commodities requiring special equipment)* between Des Moines, IA, on the one hand, and on the other, Huxley, and Ames, IA for 180 days. Applicant intends to tack with present authority and interline in Des Moines, IA. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Wierson TV & Appliance, P.O. Box 85, Ames, IA 50010. Bleeker's, Inc., 125 Main Street, Ames, IA 50010. Collegiate Pacific Co., P.O. Box 1850, Ames, IA 50010. Schroeders Furniture & TV, Ballard Plaza, Huxley, IA 50124. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 105782 (Sub-13TA), filed June 15, 1979. Applicant: HUGHES REFRIGERATED EXPRESS, INC., P.O. Box 2106, Haines City, FL 33844. Representative: James E. Wharton, Suite 811, Metcalf Building, 100 S. Orange Avenue, Orlando, FL 32801. *Frozen foods* (except in bulk) from the facilities of Stouffer Foods at or near Cleveland and Solon, OH to points in VA, SC, NC, KY, TN, GA, and FL for 180 days. Supporting Shipper(s): Stouffer Foods, 5750 Harper Road, Solon, OH 44139. Send protests to: Donna M. Jones, T/A, ICC—BOp, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 106373 (Sub-46TA), filed June 15, 1979. Applicant: THE SERVICE TRANSPORT CO., 114½ East Main Street, Ravenna, Ohio 44266. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, Post Office Box 1240, Arlington, VA 22210. *Iron and steel articles* (1) from the facilities of Republic Steel Corporation at or near Buffalo, NY, Beaver Falls, PA, Canton, Cleveland, Massillon, Niles, Warren, and Youngstown, OH, to points in IN, IL, WI, KY, and MI; and (2) from the facilities of Republic Steel Corporation at or near South Chicago, IL, and Gary, IN, to points in OH, KY, PA, NY, IN, and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Republic Steel Corp., P.O. Box 6778, Cleveland, OH 44101. Send protests to: D/S, I.C.C., 101 N. 7th Street, Philadelphia, PA 19106.

MC 106603 (Sub-200TA), filed June 13, 1979. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, SW., P.O. Box 8099, Grand Rapids, MI 49508. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Iron and steel* articles from the facilities (facilities to include off premise warehouses and processors stocking and/or acting as agent for U.S. Steel Product) of United States Steel Corporation located in the PA Counties of Allegheny and Westmoreland, and the OH Counties of Mahoning, Trumbull, Cuyahoga and Lorain, to all points in the States of IN, IL, MI, WI, KY and OH. For

180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): United States Steel Corporation, Room 568—600 Grant Street, Pittsburgh, PA 15230. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 107012 (Sub-383TA), filed April 27, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (same address as applicant). *Such commodities as are dealt in by retail department stores (except commodities which because of their size or weight require the use of specialized equipment and commodities in bulk),* from Secaucus, NJ; New York, NY; Philadelphia, PA; Charlotte, NC; and points in Los Angeles and Orange Counties, CA to the facilities of Ayr-Way Stores, Inc., located at or near Indianapolis, IN for 180 days. Supporting shipper: Ayr-Way Stores, Inc., 8250 Zionsville Road, Indianapolis, IN 46268. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 107403 (Sub-1229TA), filed May 24, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Isocyanates, in bulk, in tank vehicles* from Irvine, CA to Coolidge, AZ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mobay Chemical Corp., Penn-Lincoln Pkwy West, Pittsburgh, PA 15205. Send protests to: I.C.C., Federal Reserve Bank Building, 101 N. 7th Street, Room 620, Philadelphia, PA 19106.

MC 109692 (Sub-87TA), filed June 6, 1979. Applicant: GRAIN BELT TRANSPORTATION COMPANY, Route 13, Kansas City, MO 64161. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. *Tractors (except truck tractors) and parts thereof,* from the facilities of Allis-Chalmers Corporation at or near Milwaukee, WI to points in AR, CO, IL, IN, IA, KS, KY, MN, MO, NE, ND, OK, SD, TN, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Allis-Chalmers Corp., P.O. Box 512, Milwaukee, WI 53201. Send protests to: Vernon Coble, DS, ICC, 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 112223 (Sub-122TA), filed June 11, 1979. Applicant: QUICKIE TRANSPORT COMPANY, 1700 Northeast New Brighton Boulevard, Minneapolis, MN 55413. Representative: Earl Hacking (same address as applicant). *Petroleum products, in bulk, in tank vehicles,* from Minot, ND to points in MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cenex, P.O. Box 43089, St. Paul, MN 55164. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401

MC 113063 (Sub-9TA), filed June 15, 1979. Applicant: RALPH H. BURNS & SONS, INC., P.O. Box 38, Hillsboro, WV 24946. Representative: Theodore Polydoroff, 1307 Dolley Madison Boulevard, Suite 301, McLean, VA 22101. (1) *asphaltic cement and liquid asphalt* and (2) *byproducts of the commodities named in* (1) *above,* from the facilities of Chevron, U.S.A., INC., at or near Marietta, OH, to points in Barbour, Braxton, Doddridge, Fayette, Gilmer, Greenbrier, Harrison, Lewis, Nicholas, Pendleton, Pocahontas, Raleigh, Randolph, Taylor, Tucker, Upshur and Webster counties, WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chevron U.S.A., Inc., San Francisco, CA 94105. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 113642 (Sub-18TA), filed May 22, 1979. Applicant: WINN TRUCKING SERVICE, INC., Route 2, Horse Cave, KY 42749. Representative: Wm. P. Whitney, Jr., 708 McClure Bldg., Frankfort, KY 40601. *Contract,* irregular, *Pipe, iron or steel and fittings, iron and steel multi-plate and tunnel liners and bolts, channels, crowder bars and nuts* from Horse Cave, KY, to points in WV. (Restriction: Except articles which, because of their size, shape or weight, require use of special equipment.) Supporting shipper(s): Chas. W. Hall, Armco, Inc., 703 Curtis St., Middletown, Oh 45043. Send protests to: Linda H. Sypher, D/S, ICC, 426 P.O. Bldg., Louisville, KY 40202.

MC 114552 (Sub-217TA), filed June 12, 1979. Applicant: SENN TRUCKING COMPANY, P.O. Drawer 220, Newberry, SC 29108. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. *Industrial and heavy duty machinery, machinery parts, and steel articles,* between Mobile, AL on the one hand, and, on the other, points in GA, for 180 days. Supporting shipper(s): Strachan Shipping Company, P.O. Box 2127, Mobile, AL 36601. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 114632 (Sub-234TA), filed May 29, 1979. Applicant: APPLE LINES, INC., 212 S.W. Second Street, Madison, SD 57042. Representative: David E. Peterson (same address as applicant's). *Meats, meat products, meat by-products and articles used and 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 commodities in bulk) from the facilities of Lauridsen Foods at Britt, IA and the facilities of Armour & Co. at Mason City, IA on the one hand, and, on the other, points in AR, CO, CT, DC, DE, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NY, ND, OH, OK, PA, RI, SD, TN, TX, UT, VT, VA, WV, WI, & WY for 180 days. Supporting shipper(s): Armour & Co., Greyhound Tower, Phoenix, AZ 85077. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 114632 (Sub-235), filed May 29, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant's). *Foodstuffs (except in bulk, in tank vehicles)* from the facilities of J. H. Filbert, Inc., Baltimore, MD; Anne Arundel, Baltimore, Howard and Prince Georges Counties in MD to points in CT, IL, IN, MA, ME, MI, NY, NH, OH, PA, RI, VT, WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. H. Filbert, Inc., 3701 Southwestern Blvd., Baltimore, MD 21229. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 114632 (Sub-236TA), filed May 29, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant's). *Dry animal and poultry feed, dry mineral mixtures, insecticides in containers and livestock and poultry feeders* from Quincy, IL to points in CO, MT, NE, SD and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Moorman Mfg. Co., 1000 North 30th, Quincy, IL 62301. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 114632 (Sub-237TA), filed June 18, 1979. Applicant: APPLE LINES, INC., 212 S.W. Second Street, Madison, SD 57042. Representative: David E. Peterson (same address as applicant's). *General commodities* from Berlin, CT to Chicago, IL; Detroit, MI; Atlanta, GA; Dallas and Houston, TX; Los Angeles and Oakland, CA; Jacksonville, Orlando, Tampa and Miami, FL; and their respective commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Charter Oak Shippers Cooperative Association, Inc.,

One Parkland Drive, Darien, CT 06820. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 115523 (Sub-185TA), filed May 16, 1979. Applicant: CLARK TANK LINES COMPANY, 1450 Beck Street, Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same address as applicant). *Calcium chloride*, bulk liquid, from Rowley and Salt Lake City, UT to points in ID, CO, NV and WY, for 180 days. Supporting shipper(s): Thatcher Chemical Company, 1900 Fortune Road, P.O. Box 6114, Salt Lake City, UT 84106. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 115793 (Sub-28TA), filed June 5, 1979. Applicant: CALDWELL FREIGHT LINES, INC., P.O. Box 620, Lenoir, NC 28645. Representative: C. Douglas Woods (same as applicant) *Furniture, furniture parts, and materials and supplies, used in the manufacturing of furniture, except such materials and supplies in bulk* from KY to NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leggett & Platt, Inc., 18th Rd., Carthage, MO 64836; Bassett Furniture Ind. of NC, P.O. Box 47, Newton, NC; Hammary Furniture (Div. of U.S. Ind. Inc.) P.O. Box 760, Lenoir, NC 28645; Singer Furniture Company, P.O. Box 1588, Lenoir, NC 28645. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 118142 (Sub-223TA), filed May 24, 1979. Applicant: M. BRUENGER & CO., INC., 6250 No. Broadway, Wichita, KS 67219. Representative: Lester C. Aryin, 814 Century Plaza Bldg., Wichita, KS 67202. *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses* as defined in Section 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 facilities of Lauidsen Foods, Inc. at or near Britt, IA and Armour & Company, Mason City, IA on the one hand, and on the other hand to points in the U.S. except AK and HI. Restricted to shipments restricted to or originating at such facilities; for 180 days, common, irregular. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour & Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: M. E. Taylor, D/S, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 118142 (Sub-227TA), filed June 22, 1979. Applicant: M. BRUENGER & CO., INC., 6240 No. Broadway, Wichita, KS 67219. Representative: Brad T. Murphree, 814 Century Plaza Bldg., Wichita, KS 67202. *Canned goods* (except frozen or in bulk) from facilities of Joan of Arc, Inc., at or near Hoopeston and Princeville, IL and St. Francisville and Belledeau, LA to points in AZ, CA, CO, ID, MT, NV NM, OR, UT, WA & WY, common, irregular, for 180 days. Supporting shipper(s): Joan of Arc, Inc., 2231 W. Altorfer Dr., Peoria, IL 61614. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 118572 (Sub-4TA), filed May 30, 1979. Applicant: D. J. KING, INC., 370 East Main St., Branford, Connecticut 06405. Representative: Paul J. Goldstein, 109 Church St., New Haven, CT 06510. *Common carrier*, irregular routes, *Liquid petroleum products in bulk* from points in New Jersey to points in Connecticut and points in Massachusetts on and west of Massachusetts Highway 12. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S.A.Y. Industries, Inc., 20 Mohawk St., Leominster, Mass. 01453. Send protests to: J. D. Perry, Jr., District Supervisor, ICC, 135 High Street, Hartford, CT 06103.

MC 119493 (Sub-300TA), filed June 11, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, P.O. Box 1196, Joplin, MO 64801. *Electrical and lighting equipment and parts; and materials and supplies used in the manufacture and distribution thereof (except in bulk)*, between Carthage, MO on the one hand, and points in and east of MT, WY, CO, and NM on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): H. E. Williams Products Company, 831 W. Fairview Avenue, Carthage, MO 64836. Send protests to: John V. Varry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119493 (Sub-301TA), filed June 8, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas Boone, P.O. Box 1196, Joplin, MO 64801. *Paints, stains, and varnishes (except in bulk) and materials and supplies used in the manufacture and distribution thereof (except in bulk)*, between St. Louis, MO and its commercial zone on the one hand, and points in AR on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. H. Fischer, Inc., 826 South 18th St., St. Louis, MO 63103. Send protests to: John V. Barry, DS, ICC, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119493 (Sub-302TA), filed May 29, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as applicant). *Paper and paper products and materials and supplies used in the manufacture and distribution thereof (except in bulk)*, between Indianapolis, IN on the one hand, and points in the U.S. on the other hand, for 180 days. Supporting shipper(s): American Paper Stock, div., Beveridge Paper Company, Inc., 717 W. Washington Street, Indianapolis, IN 46204. Send protests to: DS John V. Barry, ICC, 600 Federal Building, 911 Walnut, Kansas City, MO 64106.

MC 123872 (Sub-105TA), filed June 11, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Bathroom furniture and accessories including but not limited to hampers, wastebaskets, rattan furniture, scales and tissue boxes* from the facilities of LaMont, Ltd, Burlington, IA to points in Charlotte, NC and Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Belk Stores Services, Inc., P.O. Box 31788, Charlotte, NC 28231. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd-Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 124083 (Sub-60TA), filed May 30, 1979. Applicant: SKINNER MOTOR EXPRESS, INC., 1035 South Keystone Avenue, Indianapolis, IN 46203. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Dry fertilizer and fertilizer and fertilizer ingredients* from the facilities of River Road Terminal at or near Louisville, KY to points in IN and OH for 180 days. Supporting shipper(s): Swift Agricultural Chemicals Corp., 30 North LaSalle Street, Chicago, IL 60602. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 125433 (Sub-272TA), filed May 24, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). (1) *Paper and paper products* and *materials, equipment and supplies* used in the manufacture of paper and paper products, and (2) *vinyl, paper book binders* and *book covers*, From Taylorville, IL; St. Louis and St. Genevieve, MO to points in WA, OR, CA, AZ, NV, UT, ID, MT, WY, CO, NM and TX. Restricted to shipments

orignating at the facilities of Georgia Pacific. Supporting shipper(s): Georgia-Pacific Corporation, 800 Summer Street, Stamford, CT 06901. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125433 (Sub-273TA), filed May 24, 1979. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Tractors* (other than truck tractors) and parts thereof, from the facilities of Allis-Chalmers Corporation located at or near Milwaukee, WI to points in the United States in and west of MN, IA, MO, AR, and LA, for 180 days. An underlying ETA requests 90 days authority. Supporting shipper(s): Allis-Chalmers Corporation, Box 512, Milwaukee, WI 53201. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 126822 (Sub-57TA), filed May 24, 1979. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: Kenneth E. Smith (same as applicant). (1) *air handling equipment, dampers, louvers, & shutters, material & supplies used in the installation thereof,* (2) *materials, equipment and supplies used in the manufacture & distribution of commodities in* (1) *above, in reverse direction,* between the facilities of Ruskin Manufacturing Co., located in Parsons, Great Bend, Paola and Clearwater, KS; Grandview, MO; and Los Angeles, CA and points in the U.S. (except AK and HI). Restricted against commodities because of size & weight require the use of special equipment & commodities in bulk, for 180 days. Supporting shipper(s): Ruskin Manufacturing Co., Inc., 3900 Dr. Greeves Road, Grandview, MO 64030. Send protests to: DS John V. Barry, ICC, 600 Federal Building, 911 Walnut, Kansas City, MO 64106.

MC 128273 (Sub-350TA), filed June 21, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same as above). *Such commodities as are dealt in or used by manufacturers and distributors of marine engines,* between Stillwater, OK, ooh, and oo points in the U.S. (except AK, HI & OK). Restricted to traffic which originates at or is destined to the facilities of Mercury Marine Div., of Brunswick Corp., at or near Stillwater, OK. Further restricted against the transportation of commodities in bulk in tank vehicles, and commodities which, because of size or weight, require the use of special equipment, for 180 days, common, irregular. Supporting shipper(s): Mercury Marine Div. of Brunswick Corporation, One Brunswick Plaza, Skokie, IL 60077. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 128383 (Sub-86TA), filed May 29, 1979. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Rd., Sharon Hill, PA 19079. Representative: Leonard C. Zucker (same as applicant). *Calculators, spelling machines and parts used in the manufacture thereof, having a prior or subsequent movement by air or water, in rollerized equipment* between the airports and piers of New Orleans, LA on the one hand, and Lubbock, TX on the other for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Circle Airfrt Corp., P.O. Box 20060, New Orleans, LA 70141. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 128672 (Sub-6TA), filed June 6, 1979. Applicant: TIMBER TRUCKING CO., INC., P.O. Box 231, Ripley, WV 25271. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Contract carrier:* irregular routes: *Lumber, timber and wood products,* from the facilities of the Burke-Parsons-Bowlby Corp. at or near LeLand, NC, to points in the states of AL, CT, DE, DC, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Burke-Pasons-Bowlby Corp., P.O. Box 231, Ripley, WV 25271. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 129563 (Sub-9TA), filed May 25, 1979. Applicant: ONONDAGA BEVERAGE TRANSPORT, INC., 345 Spencer Street, Syracuse, NY 13204. Representative: Freeda Harvey (same address as above). Contract carrier-irregular routes. *Malt Beverages in containers,* from Frankenmuth, MI to Syracuse, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Onondaga Beer Imports, Inc., 345 Spencer Street, Syracuse, NY 13204. Send protests to: Richard H. Cattadoris, DS, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 133562 (Sub-40TA), filed June 18, 1979. Applicant: HOLIDAY EXPRESS CORPORATION, P.O. Box 115, Estherville, IA 51334. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. *Swimming pool parts* from Edison, NJ to the facilities of Aquarius Swimming Pool Co., Inc., at or near Minneapolis, MN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Aquarius Swimming Pool Co., Inc., 16900 Cedar Ave., SW., Lakeville, MN 50068. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 134783 (Sub-56TA), filed June 19, 1979. Applicant: DIRECT SERVICE, INC., P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Canned goods* from the facilities of Sweet Sue Kitchens, Inc., at or near Athens, AL, to points in the U.S. in and east of ND, SD, NE, CO, and NM for 180 days. Supporting shipper(s): Sweet Sue Kitchens, Inc., P.O. Box 1107, Athens, AL 36511. Send protests to: Martha A. Powell, Trans. Asst., I.C.C., Room 9A27, Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 134922 (Sub-299TA), filed May 29, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same as applicant). *Ladders, scaffolding, work and lift platforms, and parts and accessories* for such commodities (except commodities in bulk and those which because of size or weight require the use of special equipment), between Wooster, OH, on the one hand, and on the other, points in GA, FL, NC, SC, AL, MS, TN, KY, VA and WV, for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bauer Corporation, 1505 E. Bowman Street, Wooster, OH 44691. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 134922 (Sub-300TA), filed June 22, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same as applicant). Underlying ETA seeks 90 day authority. *Paper and paper products* from Hodge, LA to Brooklyn, NY, Deer Park, Middletown and New Philadelphia, OH, Oakmont and Paoli, PA and Wellsburg, WV, for 180 days. Supporting shipper(s): Continental Forest Industries, Mill Street, Hodge, LA 71247. Send protests to: William H. Land, Jr., 3108 Federal Office, 700 West Capitol, Little Rock, AR 72201.

MC 134922 (Sub-301TA), filed June 22, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same as applicant). Underlying ETA

seeks 90 day authority. *Pulp board, not corrugated,* from the facilities of Green Bay Packaging, Inc., located in AR to Bridgeview, Centralia, Chicago, Cicero, Elgin, Ottawa and Rock Island, IL; Detroit, Monroe, Schoolcraft and St. Joseph, MI; Cincinnati, Cleveland, Dayton, Eaton, Greenville, Hamilton, Massillon, Middletown, Piqua and Reading, OH; Brownsville, Dallas, Denison, Fort Worth, Garland, Houston and Waco, TX and Appleton, Ashippen, Columbus, Hudson, Kaukauna, Milwaukee, Plymouth and Shawano, WI, for 180 days. Supporting shipper(s): Green Bay Packaging, Inc., 1700 North Webster, Green Bay, WI 54305. Send protests to: William H. Land, Jr., 3108 Federal Office, 700 West Capitol, Little Rock, AR 72201.

MC 135283 (Sub-53TA), filed May 31, 1979. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., 432 So. Stuhr Rd., P.O. Box 2122, Grand Island, NE 68801. Representative: Lavern R. Holdeman, Peterson, Bowman, Swanson and Johanns, P.O. Box 81849, Lincoln, NE 68501. *Edible flour, foodstuffs, and batter mix (onion ring coatings), (except in bulk),* from Chicago, IL and St. Louis, MO to the facilities of Delicious Foods Co. at or near Grand Island, NE, restricted to traffic originating at and destined to named points, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Delicious Foods Co., No. Hwy 281, P.O. Box 730, Grand Island, NE 68801. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 135283(Sub-54TA), filed May 25, 1979. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., 432 So. Stuhr Rd., P.O. Box 2122, Grand Island, NE 68801. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *Radiators, engine cooling,* from Centerville, IA to the facilities of Sperry New Holland at or near Grand Island and Lexington, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sperry New Holland, Division of Sperry Rand Corp., 3445 W. Stolley Park Rd., Grand Island, NE 68801. Send protests to: Carroll Russell, ICC, Suite 620,110 No. 14th St., Omaha, NE 68102.

MC 135283 (Sub-55TA), filed May 25, 1979. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., 432 So. Stuhr Rd., P.O. Box 2122, Grand Island, NE 68801. Representative: Lavern R. Holdman, Peterson Bowman Swanson & Johanns, P.O. Box 81849, Lincoln, NE 68501. *Alcoholic beverages (except in bulk),* from Stanley, KY and Cleveland, OH to Grand Island, NE, restricted to traffic originating at and destined to named points, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Central Nebraska Liquor Co., 326 No. Elm St., Grand Island, NE 68801. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 135653 (Sub-6TA), filed May 29, 1979. Applicant: GLENN E. TRIPP d.b.a. SPECIAL SERVICE, 760 Lindenwood Lane, Medina, OH 44256. Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215. *Canned fruit juices,* from the facilities of or of used by Keystone Foods, Inc., located at or near Erie, PA to points in OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keystone Foods, Inc., 63 Wall St., North East, PA 16428. Send protests to: D/S, I.C.C., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 135732 (Sub-36TA), filed June 12, 1979. Applicant: AUBREY FREIGHT LINES, INC., P.O. Box 503, Elizabeth, NJ 07207. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Tiles from Laredo, TX to points in the states of IL, IN, WI, OH, PA, NJ, NY, CT, and MA for 180 days. Supporting shipper(s): Marblefar S.A., Subsidiary of Robert A. Baldini & Co. Inc., 89 Milburn Avenue, Milburn, NJ. Send protests to: Robert E. Johnstone, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 135803 (Sub-3TA), filed June 13, 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. *Animal and poutry and feed ingredients,* from the facilities of Carnation Co., Milling Div., at Stockton and Fresno, CA to points in NV; *Materials and supplies* used in the manufacture and distribution of animal and poutry feed and feed ingredients, from points in NV to the facilities of Carnation Co., Milling Div., at Stockton and Fresno, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carnation Co., Milling Div., 5045 Wilshire Blvd., Los Angeles, CA 90036. Send protests to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 135803 (Sub-4TA), filed June 22, 1979. Applicant: WALLACE TRANSPORT, 9290 E. Hwy 140, P.O. Box 67, Planada, CA 95365. Representative: L. C. Des Lauriers, 2901 S. Sunol, Vernon, CA 90023. *Paper Bags,* from the facilities of Hoerner Waldorf, Champion International Corp., at Anaheim, CA to Flagstaff, Phoenix, and Tucson, AZ, and Orem, Provo and Salt Lake City, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hoerner Waldorf, Champion International Corp., 1701 S. Lewis St., Anaheim, CA 92805. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 135953 (Sub-5TA), filed June 11, 1979. Applicant: CHEROKEE LINES, INC., P.O. Box 152, Cushing, OK 74023. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Such commodities as are dealt in by wholesale and retail grocery and drug stores,* (except commodities in bulk), from the facilities of The Procter & Gamble Distributing Company, at or near Cincinnati, OH, to points in PA, NY, NJ, and MD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136013 (Sub-6TA), filed May 23, 1979. Applicant: BAKERSFIELD EXPRESS, INC., 1825 De La Cruz Blvd., Santa Clara, CA 95050. Representative: W. J. Monheim, P.O. Box 1756, Whittier, CA 90609. Contract carrier; irregular routes: *Insulating materials and air ducts* from the facilities of Johns-Manville Sales Corp. at or near Corona and Willows, CA to points in AZ, ID, MT, NV, NM, OR, UT, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Johns-Manville Sales Corp., 2600 Campus Dr., San Mateo, CA 94403. Send protests to: Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 136343 (Sub-167TA), filed June 13, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Magazines and materials, equipment, and supplies used in the manufacture and sale of magazines (except commodities in bulk),* from the facilities utilized by Danner Press Corp. located at or near Farmingdale, Long Island, NY, to the facilities of Danner Press Corp. located at or near Canton, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Danner Press Corp., Box 8349, Canton, OH 44711. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 136393 (Sub-4TA), filed June 15, 1979. Applicant: N.Y., N.J., CONN. FREIGHT & MESSENGER CORP., 351 W. 38 St., New York, N.Y. 10018.

Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10001. *(1) Wearing apparel; (2) Such merchandise as is dealt in by retail department stores when moving in the same vehicle as wearing apparel,* between points in the New York, NY commercial zone, on the one hand, and, on the other, points in the Los Angeles, CA, commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are eighteen (18) shippers supporting this application. Their statements may be examined at the office listed below and headquarters. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

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Permanent Authority Decisions; Decision-Notice

Decided: June 21, 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 were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(l) may file a petition for leave to intervene under Rule 247(1) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or 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 to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.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 present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed on or before August 17, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton and Liberman.

H. G. Homme, Jr.,

Secretary.

MC 531 (Sub-379F), filed March 12, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *petroleum, petroleum products,* and *liquid chemicals,* in bulk, in tank vehicles, (a) from Baton Rouge, LA, to points in AZ, CA, CO, CT, DE, ID, IA, IL, IN, MA, MD, ME, MI, MN, MO, MT, ND, NE, NH, NJ, NM, NV, NY, OH, OR, PA, RI, SC, SD, UT, VA, WA, WV, and WY, and (b) from those points in TX on, south, and east of a line beginning at the TX–LA State line and extending

along U.S. Hwy 190, to junction U.S. Hwy 75, and then along U.S. Hwy 75 to the Gulf of Mexico, to Memphis and Kingsport, TN, and points in AR, CA, CT, DE, IA, IL, IN, MA, ME, MI, MO, NC, NH, NJ, NY, OH, PA, RI, SC, VA, WI, and WV, and (2) *commodities*, in bulk, in tank vehicles, from points in the United States (except AK and HI), to points in AL, AR, FL, GA, KY, LA, MS, NC, NM, OK, SC, TN, and TX. (Hearing site: Houston, TX.)

MC 531 (Sub-380F) filed March 12, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sugar, corn syrups and blends of sugar and corn syrups*, in bulk, in tank vehicles, (1) from points in LA, to points in AL, AR, FL, GA, IL, IN, KY, MI, MS, MO, NC, OH, OK, SC, TN, and (2) from Decatur, AL, to points in LA and MS. (Hearing site: New Orleans, LA.)

MC 720 (Sub-64F), filed March 19, 1979. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: Tom Westerman (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products;* and (2) *such equipment, materials, and supplies* as are used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk, and those which because of size or weight require the use of special equipment), between the facilities of Fort Howard Paper Company, at or near Green Bay, WI, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and DC. (Hearing site: Washington, DC, or Milwaukee, WI.)

MC 730 (Sub-435F), filed March 12, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: A. G. Krebs (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Garden City, KS and junction U.S. Hwys 80 and 67, from Garden City over U.S. Hwy 83 to junction U.S. Hwy 270, then over U.S. Hwy 270 to junction U.S. Hwy 183, then over U.S. Hwy 183 to junction U.S. Hwy 66, then over U.S. Hwy 66 to junction U.S. Hwy 81, then over U.S. Hwy 81 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction U.S. Hwy 67, and return over the same route, serving no intermediate points, and (2) between Dodge City, KS and junction Interstate Hwys 35E and 635, from Dodge City over U.S. Hwy 283 to junction U.S. Hwy 64, then over U.S. Hwy 64 to junction U.S. Hwy 81, then over U.S. Hwy 81 to junction U.S. Hwy 66, then over U.S. Hwy 66 to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction Interstate Hwy 35E, then over Interstate Hwy 35E to junction Interstate Hwy 635, and return over the same route, serving no intermediate points, as alternate routes in (1) and (2) above for operating convenience only, in connection with applicant's otherwise authorized regular-route operations, and serving junction U.S. Hwys 81 and 66 for purposes of joinder only. (Hearing site: Washington, DC or San Francisco, CA.)

MC 7840 (Sub-12F), filed March 19, 1979. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper Street, Watertown, NY 13601. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC. 20001. To operate as a *common carrier*, by motor vehicles, in interstate or foreign commerce, over irregular routes, transporting *sanitary paper products*, from Plattsburgh, NY, to points in MI and OH. (Hearing site: Washington, DC.)

MC 18121 (Sub-26F), filed March 15, 1979. Applicant: ADVANCE TRANSPORTATION COMPANY, An Illinois Corporation, P.O. Box 719, Milwaukee, WI 53201. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicles, in interstate or foreign commerce, over irregular routes, transporting *paper, paper products, cellulose products, and textile softeners*, (except commodities in bulk, in tank vehicles), from Green Bay, WI, to Chicago, IL, restricted to the transportation of traffic originating at the facilities of Procter & Gamble Paper Products Co., at or near Green Bay, WI, and destined to Chicago, IL. (Hearing site: Milwaukee or Madison, WI.)

MC 35320 (Sub-234F), filed March 19, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicles, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, ammunition parts, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Evans Products Co., Ronthor Division, at or near Social Circle, GA, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 35320 (Sub-235F), filed March 19, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicles, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, ammunition parts, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Wellington Puritan Mills, Inc., at or near Madison, Athens, Greensboro, and Eatonton, GA, as off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 35320 (Sub-241F), filed March 19, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicles, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, ammunition parts, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of U.S.I. Agri-Business Co., at or near Alpharetta, GA, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 35320 (Sub-242F), filed March 19, 1979. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives,

ammunition, ammunition parts, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Jebco, Inc., at or near Warrenton, GA, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 42011 (Sub-52F), filed March 16, 1979. Applicant: D. Q. WISE & CO., INC., P.O. Drawer L, Tulsa, OK 74112. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *metal pipe* and (2) *materials* used in the manufacture of the commodities named in (1) above, between Mannford and Sand Springs, OK, on the one hand, and, on the other, points, in AL, KY, MS, NJ, NC, OH, PA, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Southwest Tube Manufacturing Co., at Mannford and Sand Springs, OK. (Hearing site: Tulsa, OK.)

MC 42121 (Sub-1F), filed March 9, 1979. Applicant: B&B MOTOR FREIGHT, INC., 527 Pennsylvania Avenue, Linden, NJ 07036. Representative: Walter L. Weart, 548 Anita Street, Des Plaines, IL 60016. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting (1) *paper* and *plastic artices* (except commodities in bulk, in tank vehicles); and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles), between Millville, NJ and New York, NY, restricted to the transportation of traffic originating at or destined to the facilities of The Continental 2 Group, Inc., Bondware Division. (Hearing site: Newark, NJ, or Philadelphia, PA.)

MC 47171 (Sub-124F), filed March 15, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *battery boxes* and *parts* for battery boxes, between the facilities of The Richardson Company, at Philadelphia, MS, on the one hand, and, on the other, points in NC and SC. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 78400 (Sub-71F), filed March 19, 1979. Applicant: BEAUFORT TRANSFER COMPANY, a Corporation, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel articles*, between Owensville, MO, on the one hand, and, on the other, those points in the United States in and east of ID, UT, and AZ. (Hearing site: St. Louis, MO.)

MC 82841 (Sub-248F), filed March 5, 1979. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, NE 68127. Representative: Donald L. Stern, 610 Xerox Bldg., Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *electrical switchgear*, (2) *electrical control* and *relay switchboards*, (3) *electrical panels*, and (4) *parts and accessories* for the commodities named in (1), (2), and (3) above, from the facilities of E. A. Pedersen Company, at Omaha, NE, to points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MI, MS, NC, OH, PA, SC, TN, TX, VA, and WV.

Note.—Dual operations may be involved. (Hearing site: Omaha, NE.)

MC 94350 (Sub-425F), filed March 15, 1979. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, SC 29602. Representative: Mitchell King, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *travel trailers, passenger automobiles, and motor homes*, in initial movements, from Forest City, IA, to those points in the United States in and east of MT, WY, CO, and NM. (Hearing site: Des Moines, IA.)

MC 94350 (Sub-426F), filed March 15, 1979. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, SC 29602. Representative: Mitchell King, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *travel trailers, passenger automobiles, and motor homes*, in initial movements, from points in Elkhart County, IN, to points in the United States (except AK and HI). (Hearing site: Elkhart, IN.)

MC 105461 (Sub-106F), filed March 12, 1979. Applicant: HERR'S MOTOR EXPRESS, INC., P.O. Box 8, Quarryville, PA 17566. Representative: Robert R. Herr (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *zinc, zinc oxide, zinc dust, and metallic cadmium;* and (2) *zinc dross, zinc residue, lead sheets, and materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, (except commodities in bulk), between the facilities of St. Joe Zinc Company, at Potter Township, (Beaver County), PA, on the one hand, and, on the other, points in NJ, DE, MD, and NY (except New York, NY, and points in Nassau and Suffolf Counties). (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 106001 (Sub-10F), filed March 16, 1979. Applicant: DENNIS TRUCKING COMPANY, INC., 6951 Norwitch Drive, Philadelphia, PA 19153. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at (a) Sparrows Point, MD, to points in CT, DE, MA, NJ, NY, OH, PA, RI, VA, and DC, (b) Bethlehem, PA, to points in CT, DE, MA, MD, NJ, NY, OH, RI, VA, and DC, (c) Johnstown, PA, to points in CT, DE, MA, MD, NJ, NY, OH, RI, VA, and DC, and (d) Lackawanna, NY, to points in CT, DE, MA, MD, NJ, OH, PA, RI, VA, and DC, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Philadelphia, PA.)

MC 106401 (Sub-66F), filed March 19, 1979. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 31577, Charlotte, NC 28231. Representative: Roger W. Rash (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *frozen foods*, from the facilities used by Southern Frozen Foods, Division of Seabrook Farms, Inc., at or near Montezuma, GA, to points in AL, DE, KY, LA, MD, MI, MS, NC, OH, SC, TN, TX, VA, WV, and DC; and (2) *materials, supplies, and equipment* (except commodities in bulk), used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Atlanta, GA.)

MC 108341 (Sub-139F), filed March 19, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Morton E. Kiel, Suite 6193, 5 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 *iron and steel articles*, from points in Lexington and Richland Countries, SC, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Columbia, SC, or Washington, DC.)

MC 109891 (Sub-39F), filed March 16, 1979. Applicant: INFINGER TRANSPORTATION COMPANY, INC., 2811 Carner Avenue, P.O. Box 7398, Charleston Heights, SC 29405. Representative: Frank B. Hand Jr., P.O. Drawer C, Berryville, VA 22611. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products*, in bulk, in tank vehicles, from Wilmington, NC, to points in SC. (Hearing site: Washington, DC, or Columbia, SC.)

MC 109891 (Sub-41F), filed March 13, 1979. Applicant: INFINGER TRANSPORTATION COMPANY, INC., 2811 Carner Avenue, P.O. Box 7398, Charleston Heights, SC 29405. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper articles*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, between Savannah, GA, on the one hand, and, on the other, points in FL. (Hearing site: Washington, DC, or Columbia, SC.)

MC 110420 (Sub-806F), filed March 19, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street N.W., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid chocolate products*, in bulk, in tank vehicles, from the facilities of M & M/Mars, a division of Mars, Inc., at or near (a) Chicago, IL, (b) Elizabethtown, PA, and (c) Waco, TX, to the facilities of M & M/Mars, a division of Mars, Inc., at or near Cleveland, TN. (Hearing site: Chicago, IL, or Washington, DC.)

Mc 112520 (Sub-365F), filed March 19, 1979. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Thomas F. Panebianco (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *general commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), in containers, and (2) *empty containers*, between points in Broward, Dade, and Palm Beach Counties, FL, on the one hand, and, on the other, points in FL, restricted in (1) above to the transportation of traffic having an immediately prior or subsequent movement by water. (Hearing site: Miami, FL.)

MC 114211 (Sub-402F), filed March 16, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant).To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials and insulating materials*, (except commodities in bulk), from the facilities of Rmax, Inc., at or near Dallas, TX, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities named in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Dallas or Fort Worth, TX.)

MC 114211 (Sub-404F), filed March 15, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting such commodities as are dealt in or used by (a) agricultural equipment manufacturers and dealers, and (b) industrial equipment manufacturers and dealers, (except commodities in bulk), between Collierville, TN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Memphis, TN, or Jackson, MS.)

MC 115311 (Sub-346F), filed March 21, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *construction materials, and materials and supplies* used in the manufacture and distribution of construction materials, (except commodities in bulk), between the facilities of The Celotex Corporation, at or near Russellville, AL, 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: Atlanta, GA, or Birmingham, AL.)

MC 115331 (Sub-489F), filed March 16, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cement;* and (2) *materials and supplies* used in the production of cement, between the facilities of Marquette Cement Co., at Cape Girardeau, MO, on the one hand, and, on the other, points in AR, IL, IN, KS, MS, MO, OK, and TN. (Hearing site: St. Louis, MO.)

MC 115331 (Sub-491F), filed March 14, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *titanium dioxide; and* (2) *materials, equipment, and supplies* used in the manfacture and distribution of titanium dioxide, between the facilities of E. I. du Pont de Nemours and Co., Inc., at or near De Lisle, MS, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, OK, and TX. (Hearing site: Washington, D.C.)

MC 115931 (Sub-84F), filed March 12, 1979. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *precut log buildings*, knocked down or in sections, and *materials, equipment, and supplies* used in the manufacture and erection of precut log buildings, between points in Ravalli County, MT, on the one hand, and, on the other, points in the United States (including AK, but excluding HI and MT). (Hearing site: Billings, MT.)

MC 117730 (Sub-46F), filed March 19, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, 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 *chemicals* (except commodities in bulk, in tank vehicles), from the facilities of Rohm & Haas

Company, Inc., at or near Louisville, KY, and Knoxville, TN to points in IL, IN, IA, KS, MI, MN, MO, OH, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, D.C.)

MC 117940 (Sub-318F), filed March 19, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by grocery stores (except commodities in bulk), from the facilities of the Couzens Distribution System, at or near Chicago, IL, to points in MN and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 118130 (Sub-109F), filed March 19, 1979. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6985, Fort Worth, TX 76115. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *carpeting;* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of carpeting, (1) from Marlin, TX, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, and (2) from points in AL, GA, NC, and SC, to Marlin, TX. (Hearing site: Dallas, TX.)

MC 121060 (Sub-94F), filed March 12, 1979. Applicant: ARROW TRUCK LINES, INC., Post Office Box 1416, Birmingham, AL 35201. Representative: Ronald F. Harris (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *construction materials*, (except in bulk), and (2) *materials and supplies used in the manufacture and distribution of construction materials*, (except commodities in bulk), between the facilities of the Celotex Corporation, at or near Pennsauken, NJ, 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: Birmingham, AL, or Tampa, FL.)

MC 123061 (Sub-120F), filed March 16, 1979. Applicant: LEATHAM BROTHERS INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283 E. South Temple #501, Salt Lake City, UT 84102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer*, in bulk, from the facilities of Occidental Chemical Co., at Lathrop, CA, to points in ID, OR, UT, NV, and WA. (Hearing site: Salt Lake City, UT, or San Francisco, CA.)

MC 124170 (Sub-117F), filed March 16, 1979. Applicant: FROSTWAYS, INC., Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *frozen food* and (2) *Commodities* the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. 10526 (a)(6) (formerly Section 203(b)(6) of the Interstate Commerce Commission Act), in mixed loads with frozen foods, from the facilities of Empire Freezers of Syracuse, Inc., at or near Syracuse, NY, to points in PA, MD, WV, OH, and the lower peninsula of MI. (Hearing site: New York City, NY, or Washington, DC.)

MC 124821 (Sub-41F), filed March 15, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: Joseph F. Hoary, 121 South Main St., Taylor, PA 18517. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *confectionery* and *cough drops*, from the facilities of Luden's Inc., at Reading, PA, to points in IL, IN, KY, NY, OH, and WV, restricted to the transportation of traffic originating at the named origin facilities or destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 125470 (Sub-46F), filed March 21, 1979. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, NE 68701. Representative: Paul D. Kratz, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., at or near Muscatine and Iowa City, IA, to points in KS and OK, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Omaha, NE.)

MC 129821 (Sub-2F), filed March 15, 1979. Applicant: NEWBERG AUTO FREIGHT, INC., 408 West First Street, Newberg, OR 97132. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper articles;* and (2) *materials, supplies, and equipment* used in the manufacture of paper, between the facilities of Publishers Paper, at Newberg and Oregon City, OR, on the one hand, and, on the other, points in CA, ID, NV, UT, and WA. (Hearing site: Portland, OR.)

MC 133590 (Sub-20F), filed March 20, 1979. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, Worcester, MA 01613. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by a manufacturer and distributor of chemicals, (except commodities in bulk, in tank vehicles), between the facilities of Shipley Company, Inc., at (a) Chicago, IL, (b) Irvine, CA, (c) Dallas, TX, and (d) points in MA, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Shipley Company, Inc., of Newton, MA. (Hearing site: Boston, MA, or Washington, DC.)

MC 135861 (Sub-39F), filed March 19, 1979. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *photographic and reproductive equipment;* and (2) *parts and accessories* for the commodities named in (1) above, in vehicles equipped with mechanical refrigeration, from Binghamton, Vestal, and Johnson City, NY, Linden, NJ, and Calvert City, KY, to points in CA, CO, GA, and TX, under continuing contract(s) with G A F Corporation, of Wayne, NJ. (Hearing site: Dallas, TX.)

MC 135861 (Sub-40F), filed March 19, 1979. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *drugs, toilet preparations, personal care products, confectionery, and chewing gum*, from the facilities of Warner-Lambert Company, at or near, (a) Chelsea and Boston, MA; (b) Milford and Orange, CT; (c) New York, NY; (d) South Brunswick, NJ; (e) Philadelphia and Lititz, PA; (f) Elk Grove Village, Chicago, and Rockford, IL; (g) Anaheim,

CA; and (h) Atlanta and Morrow, GA, to the facilities of Warner-Lambert Company, at Grand Prairie and Dallas, TX, under continuing contract(s) with Warner-Lambert Company, of Morris Plains, NJ. (Hearing site: Dallas, TX, or Chicago, IL.)

MC 135861 (Sub-41F), filed March 19, 1979. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, P.O. Box 8335, Fort Worth, TX 76112. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *floor coverings*, from points in Los Angeles and Orange Counties, CA, to points in TX, under continuing contract(s) with Merit Carpet Corporation, of Irving, TX. (Hearing site: Dallas, TX, or Los Angeles, CA.)

MC 136291 (Sub-15F), filed March 15, 1979. Applicant: CUSTOMIZED PARTS DISTRIBUTION, INC., 3600 N.W. 82nd Ave., Miami, FL 33166. Representative: Francis W. McInerny, 1000 16th St., N.W., Suite 502, Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid argon, liquid nitrogen, and liquid oxygen*, from Baltimore, MD, to points in NC and WV, under continuing contract(s) with Union Carbide Corporation, of New York, NY. Condition: Any certificate issued in this proceeding shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate. (Hearing site: Washington, DC, or Miami, FL.)

MC 136650 (Sub-5F), filed March 5, 1979. Applicant: FOOTE & DAVIES TRANSPORT CO., a corporation, 3101 McCall Drive, Doraville, GA 30340. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd. NE., Atlanta, GA 30326. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *dated printed matter* and *waste paper*, from the facilities of Mid-America Webpress, Inc., at or near Lincoln, NE, to points in the United States (except AK and HI), and (2) *such commodities* as are dealt in or used by printing plants (except commodities in bulk and those requiring special equipment), in the reverse direction, under continuing contract(s) with Mid-America Webpress, Inc., of Lincoln, NE. (Hearing site: Atlanta, GA.)

MC 141320 (Sub-12TF), filed March 19, 1979. Applicant: UNITED STATES PRIORITY TRANSPORT CORP., 900 Walt Whitman Road, Suite 303, Huntington Station, NY 11746. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier* by motor vehicles, in interstate and foreign commerce, over irregular routes, transporting (1) *radiopharmaceuticals, medical isotopes, and medical test kits*, and (2) *apparatus* for the commodities in (1) above, between South Plainfield, NJ, on the one hand, and, on the other, points in DC and Fairfax County, VA, under continuing contract(s) with Medi+Physics, Inc., of South Plainfield, NJ. (Hearing site: New York, NY.)

Note.—To the extent that the certificate to be issued in this proceeding authorizes the transportation of radiopharmaceuticals and medical isotopes, it will expire 5 years from the date of insurance.

MC 141770 (Sub-8F), filed March 16, 1979. Applicant: TPC TRANSPORTATION COMPANY, a corporation, 40 Cleveland Road East, Huron, OH 44839. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *brewers wet grains*, in bulk, in dump vehicles, from St. Louis, MO, to points in AL, AR, IL, IN, IA, KS, KY, MS, OH, OK, and TN, under continuing contract(s) with the Pillsbury Company, of Minneapolis, MN. (Hearing site: Columbus, OH.)

MC 142310 (Sub-13F), filed March 19, 1979. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting *paper and paper products*, from the facilities of Appleton Papers, Inc., at or near Appleton and Combined Locks, WI, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Madison or Appleton, WI.)

MC 143771 (Sub-2F), filed March 16, 1979. Applicant: NORTHERN MICHIGAN TRANSIT, INC., 1068 O'Rourke Blvd., P.O. Box 151, Gaylord, MI 49735. Representative: James R. Davis, 1018 Michigan National Tower, Lansing, MI 48933. To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting *landscape timbers*, from the facilities of Lake Woods Forest Products, Inc., at or near Grayling, MI, to points in OH, IN, and IL. (Hearing site: Lansing or Detroit, MI.)

MC 143991 (Sub-2F), filed March 13, 1979. Applicant: BICENTENNIAL TRANSPORT, INC., 317 N. North Point Blvd., Baltimore, MD 21224. Representative: Gordon D. Fronk, suite 1212, Ten E. Baltimore Street, Baltimore, MD 21202. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *alcoholic beverages*, having a prior movement by water, in containers, from Baltimore, MD, to Washington, DC; and (2) *empty containers and chassis*, in the reverse direction, under continuing contract(s) with Forman Brothers, Inc., of Washington, DC. (Hearing site: Washington, DC, or Baltimore, MD.)

MC 144330 (Sub-50F), filed March 13, 1979. Applicant: UTAH CARRIERS, INCORPORATED, P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber mill products* (except commodities in bulk), from points in CO and WY, to points in IL, IN, KY, MI, MN, OH, PA, TN, and WI (except from points in WY to points in TN), restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Denver, CO, or Cheyenne, WY.)

MC 144570 (Sub-2F), filed March 16, 1979. Applicant: DIVERSIFIED CARRIERS, INC., 903 6th St., N.W., Rochester, MN 55901. Representative: Stevern K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from the facilities of Iowa Beef Processors, Inc., at or near (a) Dakota City and West Point, NE, and (b) Denison, IA, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, (2) from the facilities of Iowa Beef Processors, Inc., at or near Ft. Dodge, IA, to points in CT, DE, ME, MD, NH, NJ, RI, VT, VA, WV, and DC, under continuing contract(s) in (1) and (2) above with Iowa Beef Processors, Inc., of Dakota City, NE. (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 145441 (Sub-28F), filed March 12, 1979. Applicant: A. C. B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis

Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers of glass and glass products, between the facilities of Anchor Hocking Corporation, Zanesville Mold Co., Shenango China, Inc., and Phoenix Glass, Inc., in IN, OH, PA, and WV, on the one hand, and, on the other, points in AR, AZ, CA, CO, FL, GA, ID, KS, NC, NV, NM, OK, OR, SC, TX, UT, WA, and WY. (Hearing site: Columbus, OH, or Little Rock, AR.)

Note.—Dual operations may be involved.

MC 145441 (Sub-29F), filed March 19, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from points in ID, OR, and WA, to Los Angeles and San Jose, CA, and those points in the United Sttes in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Little Rock, AR, or Portland, OR.)

Note.—Dual operations may be involved.

MC 145840 (Sub-2F), filed March 19, 1979. Applicant: L. & R., INC., 208 East Main Street, White Sulphur Springs, WV 24986. Representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood chips*, in bulk, from Rupert, WV, to Covington, VA. (Hearing site: Charleston, WV.)

MC 145950 (Sub-12F), filed March 12, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 264, Waco, TX 76710. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals, plastics*, and *plastic articles* (except commodities in bulk); and (2) *Materials, equipment, and supplies* used in the manufacture or distribution, of the commodities in (1) above (except commodities in bulk), between the facilities of Northern Petrochemical Company, at or near (a) Mankato, MN, (b) Newark, OH, (c) Clinton, MA, and (d) Chicago, Morris, and Mapleton, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, D.C.)

Note.—Dual operations may be involved.

MC 145980 (Sub-2F), filed March 15, 1979. Applicant: H.C. COOK & BOBBY JOE COOK, d.b.a. COOK TRUCKING, 2200 Willow Creek Road, Casper, Wyoming 82601. Representative: Bobby Joe Cook, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *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 by-products, and (2) *machinery, materials, equipment 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, between points in CO, ID, MT, NV, and WY, restricted against the transportation of complete oil drilling rigs. (Hearing site: Casper or Cheyenne, WY.)

MC 146040 (Sub-2F), filed March 19, 1979. Applicant: THOMAS L. MCDOWELL and BETTY MCDOWELL, d.b.a. MCDOWELL TRUCKING, Route 2, Michie, TN 38357. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting *sand, gravel, limestone, and crushed stone*, between points in Hardin and McNairy Counties, TN, Tippah, Alcorn, Prentiss, and Tishomingo Counties, MS, and Lauderdale, Colbert, and Franklin Counties, AL. (Hearing Site: Memphis, TN.)

MC 146620 (Sub-1F), filed March 12, 1979. Applicant: LOYD CURKEET, d.b.a. TRI-COUNTY TOWING, 4542 Aztec Trail, Madison, WI 53711. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wrecked, disabled, or repossessed motor vehicles, and replacement vehicles* for such commodities by use of wrecked equipment only, between points in Columbia, Dane, Grant, Green, Iowa, LaFayette, and Sauk Counties, WI, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, and SD. (Hearing site: Madison, WI, or Chicago, IL.)

MC 146621 (Sub-2F), filed March 12, 1979. Applicant: EUGENE GEORGE d.b.a. EUGENE GEORGE TRUCKING SERVICE, Route 1, Box 14A, Oswego, KS 67356. Representative: Tom B. Kretsigner, 20 East Franklin, Liberty, MO 64068. To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting (1) *steel buildings;* and (2) *equipment, materials*, and *supplies* used in the manufacture and installation of steel buildings, (a) between Chetopa, KS, on the one hand, and, on the other, points in AR, CO, IA, IL, IN, KY, LA, MO, MS, NE, OK, SD, TN, TX, and WI, and (b) between Waukesha, WI, on the one hand, and on the other, points in AR, CO, IA, IL, IN, KS, KY, LA, MO, MS, NE, OK, SD, TN, and TX. (Hearing Site: Kansas City, MO.)

MC 146711 (Sub-1F), filed March 21, 1979. Applicant: BRUCE WENZEL, R.R. #2, Langdon, ND 58249. Representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, ND 58126. To operate as a *common carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting *fertilizer and fertilizer ingredients*, from Minneapolis and Duluth, MN, to points in Cavalier and Pembina Counties, ND. (Hearing site: Fargo, ND, or Minneapolis, MN.)

[FR Doc. 79-22126 Filed 7-7-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 139
Wednesday, July 18, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., July 27, 1979.

PLACE: 2033 K Street, NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–1428–79 Filed 7–16–79; 3:22 pm]

BILLING CODE 6351–01–M

2

[Federal Register No. FR–8–1394]

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: Wednesday, July 18, 1979, at 10 a.m.

CHANGE IN MEETING: The following item has been cancelled—Labor-management relations.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, July 19, 1979, at 10 a.m.

CHANGE IN MEETING: The following items have been added to the open portion of the meeting—

Audit reports and procedures to comply with Sunshine laws: AO 1979–37 Honorable Daniel J. Flood.

The following item has been cancelled from the open portion of the meeting: Convention financing regulations.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred G. Eiland, Public Information Officer, telephone 202–523–4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S–1431–79 Filed 7–16–79; 3:22 pm]

BILLING CODE 6715–01–M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION:

July 16, 1979.

TIME AND DATE: 10 a.m., July 17, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Secretary of Labor* v. *Scotia Coal Co.*, BARB 78–609–P, etc. (Petition for Discretionary Review).

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–1429–79 Filed 7–16–79; 3:22 p.m.]

BILLING CODE 6820–12–M

4

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2:30 p.m., Tuesday, July 24, 1979.

PLACE: Board hearing room, eighth floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: NMB Case No. R–4773, Pan American World Airways, Inc./IBT—Board consideration of request by Carrier that Supplemental Hearing ordered in R–4773 not be conducted.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, telephone (202) 523–5920.

Date of Notice: July 16, 1979.

[S–1432–79 Filed 7–16–79; 3:22 pm]

BILLING CODE 7550–01–M

5

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: July 18, 1979.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Wednesday, July 18, 1:30 p.m., (1) Discussion of personnel matter (approximately 2 hours, closed—exemption 6; postponed from July 11).

ADDITIONAL INFORMATION: By a vote of 5 to 0 on July 11, 1979, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business required that the Discussion of Rancho Seco Order, held that day, be held on less than one week's notice to the public. Prompt action was required in the matter.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

July 12, 1979.

[S–1430–79 Filed 7–16–79; 3:22 pm]

BILLING CODE 7590–01–M

federal register

Wednesday
July 18, 1979

Part II

Department of Health, Education, and Welfare

Public Health Service

Requirements for a Health Maintenance Organization

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 110

Requirements for a Health Maintenance Organization

AGENCY: Public Health Service, HEW.

ACTION: Interim regulations.

SUMMARY: This rule amends the Public Health Service regulations on health maintenance organizations (HMOs) and sets forth the requirements for the organization and operation of qualified HMOs. These interim regulations implement applicable sections of the HMO Amendments of 1978. In addition, certain changes have been made in response to the public comments concerning the notice of proposed rulemaking (NPRM) published in the **Federal Register** on September 11, 1978, which proposed to implement applicable sections of the HMO Amendments of 1976.

EFFECTIVE DATE: These interim regulations are effective on August 17, 1979. Comments are due on or before September 17, 1979.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

ADDRESSES: Interested persons are invited to submit written comments or suggestions on these rules to the Director, OHMO, 12420 Parklawn Drive, Park Building, Room 3–30, Rockville, Maryland 20857. The comments will be available for public inspection and copying at the above address between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday, except for Federal holidays.

SUPPLEMENTARY INFORMATION: On September 11, 1978, a notice of proposed rulemaking was published in the **Federal Register** (43 FR 40376–84) proposing certain changes in the requirements for the organization and operation of qualified HMOs, including changes necessitated by the HMO Amendments of 1976. Interested persons were given until November 13, 1978, to submit written comments or suggestions. One hundred twenty-two comments were received by November 13, 1978, and eight comments were received after that date. All comments received were considered in revising these regulations. In addition, on November 1, 1978, the HMO Amendments of 1978 were enacted as Pub. L. 95–559, requiring further changes in these regulations.

The Secretary has rejected suggested changes in requirements which are mandated by statute, including changes inconsistent with provisions subsequently addressed by the HMO Amendments of 1978. The Secretary has implemented requests for greater specificity in the regulations wherever appropriate, and has made a number of editorial changes to simplify and clarify the regulations, as well as to eliminate duplication.

The comments received, responses thereto and the changes made, if any, are summarized below.

(1) The definition of "affiliate" was deleted from § 110.101 (Definitions). Because the HMO Amendments of 1978 use the term "party in interest" to describe essentially the same concept, the regulations now use (and define) the latter term. (See item 6 below.)

(2) A definition of "full-time student," conforming to that used by the Public Health Service for other purposes, has been added. This implements a provision of the 1978 Amendments which makes an exception to the community rating requirement for basic health services provided to a full-time student at an accredited institution of higher education.

(3) A definition of the term "medical group member" has been added to clarify that such term refers to either (a) a health professional engaged as a partner, associate, or shareholder in the medical group, or (b) any other health professional employed by the group who may be designated as a medical group member by the medical group.

(4) A new term, "non-conforming medical group," has been added to describe an entity which be a medical group but for the requirements of subparagraph (3)(i) of the definition of "medical group." That subparagraph requires the members of the group (a) to spend individually over 50 percent of their professional time in the coordinated practice of their profession, and (b) as a group, to have over 35 percent in the aggregate of their professional activity for the delivery of health services to members of an HMO. Under the definition, this entity is a medical group for purposes of this subpart except for purposes of § 110.104(a), relating to the providers of basic health services which an HMO may use.

(5) A definition of "qualified HMO" has been added for consistency of reference.

(6) A definition of the term "party in interest" has been added to § 110.101. In accordance with the HMO Amendments of 1978, HMOs are required to report to the Secretary a description of transactions between the HMO and parties in interest. (See item 30, below.)

(7) The definition of "subscriber" in § 110.101 was modified by deleting from it the words "or who under the HMO group health services agreement," since there is no requirement for a "group health services agreement." The definition now provides that a subscriber is a member who has entered into a contractual relationship with the HMO or who is responsible for making basic health services payments to the HMO or on whose behalf these payments are made.

(8) Three comments addressed the criteria specified in § 110.101 by which the Secretary will determine whether basic health services are "unusual or infrequently used" and therefore not required to be provided through staff, medical group, individual practice association (IPA), or contract providers. These letters proposed that the threshold levels for encounters or for full-time equivalent health professionals be either increased or decreased. No change was made in the regulation because the Secretary believes the present criteria are adequate to determine whether a basic health service is "unusual or infrequently used." It should be noted that only one of the two criteria must be met. Thus, HMOs finding the full-time equivalency criterion inappropriate may elect to apply the percentage of encounters criterion instead, and vice versa.

(9) Several commenters objected to the proposed deletion of the exclusion for chronic alcoholism and drug abuse services from § 110.102(d), suggesting that this had the effect of including these services within the basic health services package. The inclusion of these services was cited as an economic disadvantage to the HMO vis-a-vis its competitors who are not required to provide these services. The Secretary had proposed removing the exclusion for chronic alcoholism and drug abuse services because the term "chronic" failed adequately to distinguish between required basic services and those which are supplemental and therefore optional. The regulations have been changed to clarify that: (1) the basic health services for alcoholism and drug abuse include detoxification on either an outpatient or an inpatient basis; and (2) the HMO shall provide all other required basic health services for the treatment of other medical conditions, such as physicians'

services and acute hospital care. Additionally, it should be noted that the HMO may offer prolonged rehabilitation services in a specialized inpatient or residential facility, as a supplemental health service.

(10) Numerous letters objected to the deletion of blood plasma from the list of allowable exclusions to basic health services. Blood plasma has been returned to the list (§ 110.102(d)(13)), as it was inadvertently deleted in the proposed regulations.

(11) There were several comments suggesting the need to clarify that although an HMO is not required to provide more than 20 outpatient visits per member per year for short term mental health services, it may provide fewer, if deemed appropriate by the HMO. The Secretary has decided that no change is necessary, since § 110.102(a) of the regulations clearly states that the HMO shall provide or arrange for services "as needed."

(12) In accordance with the HMO Amendments of 1978, a new § 110.102(c) has been added requiring an HMO only to make a good faith effort to provide or arrange for basic or supplemental health services to the extent that certain events not within its control result in limitations on the availability of the HMO's facilities, personnel or financial resources. An event not within the control of an HMO is defined as one where the HMO cannot exercise influence or dominion over its occurrence. As noted in the Conference Report to the 1978 amendments (H.R. Rep. #95–1784, 95th Cong. 2d Sess., Oct. 13, 1978, p. 22), labor disputes are not to be viewed as events outside the control of the HMO.

(13) In accordance with the HMO Amendments of 1978, the HMO may exclude, upon application to and approval by the Secretary, services which are unusual or infrequently provided and not necessary for the protection of individual health (§ 110.102(d)(16)). An application for approval may be made either in anticipation of service demands or after a particular service has been requested by a member of the HMO. Examples of services the exclusion of which the Secretary would approve are transsexual surgery and reversal of voluntary sterilization. Notices of exclusions approved will be published in the **Federal Register**, as required by law, and, when appropriate, the Secretary will indicate whether all HMOs may exclude the service without further application.

(14) Section 110.103(a)(7) specifies that the HMO may provide as supplemental health services any health services not included as basic health services. Thus, the Secretary is providing that no specific approval is required for including any health service among the supplemental health services which an HMO may offer.

(15) Eight comments were received concerning the criteria which the Secretary would use in determining whether to waive the requirement that at least 35 percent (in the aggregate) of the medical group's professional activities be devoted to the delivery of services to members of an HMO. While the commenters noted that the proposed criteria were broader in scope than had been intended by the Congress, they did not propose acceptable alternative criteria. However, in light of the objections, the criteria were revised. The revised criteria (§ 110.104(a)(2)) provide that a waiver may be granted for a non-conforming medical group beyond four years from the date of the HMO's qualification if the Secretary determines that the principal professional activity (over 50 percent individually) of the entity's members is the coordinated practice of their profession and that the HMO with which the entity contracts (1) has presented an acceptable time-phased plan for the entity to achieve compliance with the 35 percent requirement for serving members of that HMO; or (2) has demonstrated that compliance with this requirement by the entity would be unreasonable and impractical because (a) the HMO serves a nonmetropolitan or rural area, or (b) the entity is a multi-specialty group which provides medical consultation upon referral on a regional or national basis, or (c) the majority of the residents of the HMO's service area are not eligible for employer-employee health benefits plans and the HMO has an insufficient number of members to require utilization of at least 35 percent of the entity's services.

(16) In accordance with the HMO Amendments of 1978, § 110.104(b) was amended to incorporate a provision delaying for four years after an HMO's qualification the limitations on HMOs entering into contracts with physicians. The regulations now provide that after four years from the date of qualification, an HMO may not contract with physicians (other than members of staff, medical groups or IPAs) if the amounts paid under contracts for basic and supplemental health services provided by physicians exceed 15 percent of the total estimated amount to be paid in a fiscal year to physicians for the provision of these services, unless the HMO principally serves a rural area, in which case the contracts may not exceed 30 percent of the total amount. The regulations also specify that this limitation does not apply to contracts for the purchase of physician services through a non-conforming medical group.

(17) There were many comments concerning the requirements set forth in § 110.104(c)(3) of the proposed regulations, which identified the types of financial arrangements required to be included in the contract between the HMO and the medical group or IPA.

The comments in opposition to this section of the proposed rule can be summarized as follows: (a) The proposed rule failed to relate the risk requirement to any of the following: utilization controls, utilization review, quality control mechanisms, and marketing factors which affect revenue; (b) The proposed rule appeared to treat medical group HMOs and IPA models differently, to the disadvantage of the IPA; (c) Since the proposed rule was interpreted to be prescriptive rather than illustrative, it appeared to preclude alternative risk options which might be appropriate in particular circumstances; (d) The emphasis on risk sharing in the proposed rule appeared to support the view of some HMO opponents that a risk sharing regulatory requirement would inevitably result in an incentive to underserve the members; (e) Congress never intended for individual physicians to have unlimited risk with regard to physician services, since it was the HMO and not the provider that was mandated to be at risk; and (f) Physicians should be required to assume total risk only for those elements of health care over which they have control.

In response to these concerns, the Secretary has revised the proposed risk sharing requirements governing medical groups and IPAs. To allow for flexibility, the regulations permit the HMO to determine the mechanisms it will employ to control costs and achieve utilization goals. The mechanisms may include risk sharing, financial incentives or other incentives. The Secretary notes, however, that if the HMO intends to use mechanisms other than financial incentives (including risk sharing), he will evaluate them carefully in carrying out his qualification and compliance functions, to determine whether they will be effective in monitoring utilization, controlling costs, and achieving utilization goals. In addition, a new § 110.104(d) has been added, which requires staff model HMOs to have effective procedures to control costs, to

monitor utilization, and to achieve utilization goals.

(18) Ten letters were received concerning the requirement in proposed § 110.104(c)(6) that medical groups and IPAs, or the health professionals associated with them, be covered by professional liability insurance. Several commenters suggested that the regulation be rewritten to permit the HMO to obtain professional liability coverage on behalf of the IPA or medical group. The regulation has been modified to permit this result. (§ 110.104(c)(4)) Other commenters suggested that only the HMO, and not the medical groups or the IPAs or health professionals associated with them, be required to carry professional liability insurance. This suggestion was rejected because professional liability coverage as required in the regulation is deemed necessary for the medical group or IPA (or their associated health professionals) in order for the HMO to have a fiscally sound operation.

(19) Section 110.104(c)(5) requires that the agreement between the HMO and medical group or IPA or other entities for the provision of basic or supplemental health services include a provision that these providers will look solely to the HMO for payment except under specified situations. This provision was modified to clarify that provider entities may look to the member for copayments and payment for supplemental health services provided on other than a prepaid basis.

(20) The definition of "medical necessity" in proposed § 110.104(f)(1) was deleted, and § 110.104(g)(1) was substituted, in accordance with the HMO Amendments of 1978. The Amendments require the HMO to pay for basic or supplemental health services which the HMO agreed to provide on a prepayment basis which were obtained other than through the HMO and were medically necessary and immediately required because of an unforeseen illness, injury, or condition. The regulation clarifies that the HMO's obligation to pay is dependent on the medical necessity of the member obtaining the service other than through the HMO. In response to a suggestion that the regulation clearly identify the HMO as the party responsible for making judgments as to the medical necessity for the services being obtained other than through the HMO, the Secretary added a phrase to this effect.

(21) Sixteen comments were received concerning the proposed allowable methods for community rating in § 110.105(a)(3). Several letters asserted that the HMO's ability to construct a competitive rate structure would be hampered by the requirement that payments from a specific group of subscribers yield revenues substantially equivalent to the product of the total number of enrollees of the group and the per-member-per-month revenue required by the HMO. Many suggested that the proposed regulation was inconsistent with conventional community rating systems. In response to these comments, the Secretary substituted a new § 110.105(b) to take into account existing community rating practices and to clarify how rates of payment may be determined under a community rating system. The regulations now allow rates to be based on either a schedule of rates charged to each subscriber group or on a per-member-per-month (or per-subscriber-per-month) revenue requirement for the HMO. Permissible practices in a community rating system are described in greater detail in a technical paper available upon request from the Office of Health Maintenance Organizations.

(22) Ten letters were received urging the deletion of the requirement prohibiting the HMO's imposition of a copayment when the copayments made by a member in a calendar year exceed 50 percent of the total annual premium cost which would be charged to that member under an option with no copayments. Several commenters asserted that the "50 percent" rule did not have the effect originally envisioned for the copayment limitation; namely, that it would prevent a perceived barrier to HMO coverage or utilization of services. Instead, they argued, because the 50 percent limitation was so low, it had the opposite effect in that it hindered the HMO's ability to reduce payments through copayment arrangements, which resulted in higher HMO premiums. Consequently, the limit not only placed the HMO at a disadvantage vis-a-vis its competitors, but also served as a barrier to HMO coverage for potential members unable to pay the resultant higher HMO premium. Although deletion of this regulation was strongly recommended, the Secretary believes that the barrier to care requirement necessitated retaining some limitation on the permissible level of copayments. He is aware, however, that the 50 percent standard has the potential to work to the disadvantage of HMOs and their members. Therefore, he has adjusted the requirement from 50 percent to 100 percent of the premium. Accordingly, copayments may not exceed 100 percent of the total annual premium under a no copayment option (§ 110.105(a)(4)(ii)). The Secretary notes that two other limitations on copayments are maintained in the regulations without change. Under § 110.105(a)(4)(i), "An HMO may not impose copayment charges that exceed 50 percent of the total cost of providing any single service to its members, nor in the aggregate more than 20 percent of the total cost of providing all basic health services."

(23) The Secretary has revised proposed § 110.105(c), concerning worker's compensation, to comply with the HMO Amendments of 1978, which address recovery of costs for the provision of certain basic health services. The new language (§ 110.105(d)) clarifies that the requirements respecting the basic health services payment do not apply to the provision of services to a member of an HMO who is entitled to benefits under a worker's compensation law or an insurance policy, to the extent that these benefits apply to these services. Thus, while an HMO is required to provide these basic health services, it may charge (or authorize the provider to charge), where appropriate, the insurance carrier, the employer, or the member.

(24) In accordance with the HMO Amendments of 1978, the Secretary has revised §§ 110.105 and 110.106 (Payments for basic and supplemental health services) to indicate that the requirement of community rating does not apply to the basic health services payment for services provided to a member who is a full-time student at an accredited institution of higher education.

(25) The Secretary has clarified the requirement that an HMO have a fiscally sound operation as it relates to the HMO's financial plan. Section 110.108(a)(3) of the proposed rule had required certain HMOs to have a satisfactory financial plan to achieve a positive cash flow and to meet the Secretary's financial requirements, but did not specify what these requirements would be. Section 110.108(a)(1) now applies to all HMOs and provides that an HMO shall have a fiscally sound operation which is demonstrated by (a) total assets being greater than total unsubordinated liabilities; (b) sufficient cash flow to meet obligations as they become due; and (c) achievement of net operating surplus, or a financial plan satisfactory to the Secretary to achieve net operating surplus within available fiscal resources. The Secretary intends, in administering the cash flow requirement, to use as a benchmark a ratio of current assets to current liabilities of at least 1:1. In his view,

maintenance of this ratio is an indication that the HMO has sufficient cash flow to meet obligations as they become due.

Two letters were received objecting that the requirement at proposed § 110.108(a)(2) for a full-time HMO Executive Director was unduly restrictive. The Secretary has deleted this requirement. In addition, he has included new language in § 110.108(a)(2), consistent with the 1978 Amendments, requiring that an HMO have administrative and managerial arrangements satisfactory to the Secretary. The HMO is now required to have an executive whose appointment and removal are controlled by the policymaking body, and personnel and systems which are sufficient for the HMO to organize, plan, control, and evaluate the financial, health services, marketing, quality assurance program, administrative and management aspects of the HMO.

(26) The Secretary has proposed to amend the regulations regarding full and fair disclosure by the HMO to members and to employers, to coordinate with requirements under the Employee Retirement Income Security Act of 1974. See 44 FR 36864, 1979. Until those provisions are published as final rules, the regulations of § 110.108(c) are left unchanged.

(27) The Secretary has revised § 110.108(d)(1), regarding an HMO's open enrollment obligations, to clarify that, for purposes of determining permissible exclusions from the figure used to calculate the HMO's net increase in enrollment, a group includes an entity which had a non-contractual arrangement for health services through the HMO. This has been done because a formal contract between an HMO and a group is not required. In addition, members enrolled through Medicare or Medicaid contracts need not be included in the calculation.

(28) The Secretary has revised § 110.108(f), prohibiting an HMO from refusing to enroll individual members of a group on the basis of their health status, to broaden the definition of "group" under this section to include all entities enrolled through a contract or other arrangement which provides for the enrollment of two or more subscribers. The Secretary has concluded that the only occasion where an HMO should be permitted to "screen" on health status grounds is for individual enrollment outside of an open enrollment period. He notes, however, that HMO's may choose the groups with which they will enter into contracts or other arrangements.

(29) The language of § 110.108(g), which relates to the conversion of membership, is retained. The Secretary notes that, even if the HMO as a general practice does not offer individual membership, it must arrange for a member of a group who so chooses to remain as an HMO member when leaving the group. However, the HMO is allowed to establish a rate differential for individual members under its community rating system (see § 110.105(b)(3)).

(30) Sixteen comments were received concerning the inclusion of the "prudent buyer" concept in § 110.108(a)(7) of the proposed regulations which would have applied to all contracts or arrangements by an HMO for the purchase or provision of supplies, equipment, facilities and services. The Secretary has deleted this provision because he believes that the information now required to be disclosed under the reporting and disclosure provisions of § 110.108(o)(2) would reveal the same type of transactions that the prudent buyer concept was intended to prevent. He believes that the disclosure approach dictated by the Congress in the 1978 Amendments should be used instead of the prohibitory approach of the proposed rules.

In addition, § 110.108(o)(4) of the regulations specifies in greater detail the circumstances under which HMOs must report combined financial statements (§ 110.108(o)(2) of the proposed regulations). The 1978 Amendments authorize the Secretary to require such statements if an HMO "controls, is controlled by, or is under common control with" another entity. The Secretary has interpreted "control" to mean that HMOs must report combined financial statements if (a) 35 percent or more of the costs of operation of the HMO go to a party in interest or (b) 35 percent or more of the revenue of a party in interest is from the HMO.

(31) Two letters were received which suggested that § 110.108(d)(4) be modified to allow an HMO to administer a health questionnaire, as well as a health examination, to individuals applying for enrollment at periods other than the designated open enrollment periods for individuals. This suggestion was incorporated into the regulations.

(32) In accordance with the HMO Amendments of 1978, the Secretary modified § 110.108(h) to permit a public HMO to have an advisory board to the policymaking body of the public entity operating the organization, which board meets the requirements for policymaking bodies. (§ 110.108(h)(2))

(33) Four letters were received concerning the requirement that hospitals through which the HMO provides basic and supplemental services be accredited by the Joint Commission on Accreditation of Hospitals (JCAH). It was suggested that Medicare certification also be acceptable. This suggestion was adopted. The regulations at § 110.108(k) now permit the HMO to provide services through hospitals accredited by the JCAH or certified by Medicare. In addition, the requirement that clinical laboratories subject to section 353 of the Clinicial Laboratories Improvement Act be certified in accordance with regulations governing participation of such laboratories under Titles XVIII and XIX was reinserted, as it was inadvertently omitted from the proposed rule.

The Assistant Secretary for Health of the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, amends 42 CFR Part 110, Subpart A, as set forth below.

Dated: June 7, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: June 30, 1979.

Hale Champion,

Acting Secretary.

Subpart A is revised to read as follows:

Subpart A—Requirements for a Health Maintenance Organization

Sec.

110.101 Definitions.
110.102 Health benefits plan: basic health services.
110.103 Health benefits plan: supplemental health services.
110.104 Providers of basic and supplemental health services.
110.105 Payment to the HMO for basic health services.
110.106 Payment to the HMO for supplemental health services.
110.107 Availability, accessibility, and continuity of basic and supplemental health services.
110.108 Organization and operation.
110.109 Special requirements: Titles XVIII and XIX of the Social Security Act.
110.110 Special requirements: Federal Employees' Health Benefits Program.

AUTHORITY: Sec. 215, 58 Stat. 690 (42 U.S.C. 216); secs. 1301–1318, as amended, 92 Stat. 2131–2141 (42 U.S.C. 300e–300e–17).

Subpart A—Requirements for a Health Maintenance Organization

§ 110.101 Definitions.

As used in this part:

"Act" means the Public Health Service Act.

"Basic health services" means health services described in § 110.102(a).

"Community rating system" means a system of fixing rates of payments for health services which meets the requirements of § 110.105(a)(3).

"Comprehensive health services" means as a minimum the following services which may be limited as to time and cost:

(1) Physician services (§ 110.102(a)(1));

(2) Outpatient services and inpatient hospital services (§ 110.102(a)(2));

(3) Medically necessary emergency health services (§ 110.102(a)(3)); and

(4) Diagnostic laboratory and diagnostic and therapeutic radiologic services (§ 110.102(a)(6)).

"Direct service contract" means a contract for the provision of basic or supplemental health services or both between an HMO and (1) a health professional other than a member of the staff of the HMO, or (2) an entity other than a medical group or an IPA.

"Full-time student" means a student who is enrolled for a sufficient number of credit hours in a semester or other academic term to enable the student to complete the course of study within not more than the number of semesters or other academic terms normally required to complete that course of study on a full-time basis at the school in which the student is enrolled.

"Health maintenance organization" (HMO) means a legal entity which provides or arranges for the provision of basic and supplemental health services to its members in the manner prescribed by, is organized and operated in the manner prescribed by, and otherwise meets the requirements of, section 1301 of the Act and the regulations of this subpart.

"Health professionals" means physicians (doctors of medicine and doctors of osteopathy), dentists, nurses, podiatrists, optometrists, physicians' assistants, clinical psychologists, social workers, pharmacists, nutritionists, occupational therapists, physical therapists, and other professionals engaged in the delivery of health services who are licensed, practice under an institutional license, are certified, or practice under authority of the HMO, a medical group, individual practice association, or other authority consistent with State law.

"Individual practice association" (IPA) means a partnership, association, corporation, or other legal entity:

(1) Which delivers or arranges for the delivery of health services and which has entered into a written services arrangement or arrangements with health professionals, a majority of whom are licensed to practice medicine or osteopathy. The written services arrangement shall provide:

(i) That these health professionals shall provide their professional services in accordance with a compensation arrangement established by the entity; and

(ii) To the extent feasible:

(A) For the sharing by these health professionals of health (including medical) and other records, equipment, and professional, technical, and administrative staff; and

(B) For the arrangement and encouragement of the continuing education of these health professionals in the field of clinical medicine and related areas.

"Medical group" means a partnership, association, corporation, or other group:

(1) Which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals (including dentists, optometrists, and podiatrists) as are necessary for the provision of health services for which the group is responsible;

(2) A majority of the members of which are licensed to practice medicine or osteopathy; and

(3) The members of which:

(i) As their principal professional activity (over 50 percent individually) engage in the coordinated practice of their profession and as a group responsibility have substantial resonsibility (over 35 percent in the aggregate of their professional activity) for the delivery of health services to members of an HMO;

(ii) Pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other similar plan unrelated to the provision of specific health services;

(iii) Share health (including medical) records and substantial portions of major equipment and of professional, technical, and administrative staff;

(iv) Arrange for and encourage continuing education in the field of clinical medicine and related areas for the members of the group and helath professionals employed by the group; and

(v)Establish an arrangement whereby a member's enrollment status is not known to the health professional who provides health services to the member.

"Medical group member" means (1) a health professional engaged as a partner, associate, or shareholder in the medical group, or (2) any other health professional employed by the group who may be designated as a medical group member by the medical group.

"Medically underserved population" means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services. The Secretary will designate these areas as described in § 110.203(g) of this part.

"Member," when used in connection with an HMO, means an individual who has entered into a contractual relationship with the HMO or on whose behalf a contractual arrangement has been entered into with the HMO by a subscriber under which the HMO assumes the responsibility for the provision to the member of basic health services and such supplemental health services as may be contracted for. "Nonconforming medical group" means an entity which would be a medical group for the purposes of this part but for its failure to satisfy the requirements in § 110.101(3)(i) that the members of a medical group: (1) spend over 50 percent of their professional time in the coordinated practice of their profession and (2) as a group have substantial responsibility (over 35 percent in the aggregate of their professional time) for the delivery of health services to members of an HMO. Except for purposes of § 110.104(a), regarding the providers of basic health services which an HMO may use, a "non-conforming medical group" shall be considered as a "medical group" for purposes of this subpart.

"Nonmetropolitan area" means an area no part of which is within a standard metropolitan statistical area as designated by the Office of Management and Budget and which does not contain a city whose population exceeds 50,000 individuals.

"Party in interest" means

(1) Any director, officer, partner, or employee of an HMO, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the HMO, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the assets of the HMO, and, in the case of an HMO organized as a nonprofit corporation, an incorporator or member of the corporation under applicable State corporation law;

(2) Any entity in which a person described in paragraph (1)—

(i) Is an officer or director;

(ii) Is a partner (if the entity is organized as a partnership);

(iii) Has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

(iv) Has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

(3) Any member of the immediate family of an individual described in paragraph (1).

"Policymaking body" of an HMO means a board of directors, governing body, or other body of individuals which has the authority to establish policy for the HMO.

"Qualified HMO" means an HMO found by the Secretary to be qualified within the meaning of Section 1310 of the Act and Subpart F of this part.

"Rural area" means any area not listed as a place having a population of 2,500 or more in Document #PC(1)A, "Number of Inhabitants," Table VI, "Population of Places," and not listed as an urbanized area in Table XI, "Population of Urbanized Areas" of the same document (1970 Census or most recent update of this document, Bureau of Census, U.S. Department of Commerce).

"Secretary" means the Secretary of Health, Education, and Welfare, and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

"Service area" means the geographic area as defined through zip codes, census tracts, or other geographic subdivisions, found by the Secretary to be the area within which the HMO provides or arranges for basic and supplemental health services that are available and accessible to its members as required by section 1301(b)(4) of the Act.

"Staff of the HMO" means health professionals who are employees of the HMO and who:

(1) Provide services to HMO members at an HMO facility subject to the staff policies and operational procedures of the HMO;

(2) Engage in the coordinated practice of their profession and provide to members of the HMO the health services which the HMO has contracted to provide;

(3) Share medical and other records, equipment, and professional, technical, and administrative staff of the HMO;

(4) Participate in continuing education in their professional field as provided or arranged for by the HMO; and

(5) Provide their professional services in accordance with a compensation arrangement, other than fee-for-service, established by the HMO. This arrangement may include, but is not limited to, fee-for-time, retainer or salary.

"Subscriber" means a member who has entered into a contractual relationship with the HMO or who is responsible for making payments for basic health services (and contracted for supplemental health services) to the HMO or on whose behalf these payments are made.

"Supplemental health services" means the health services described in § 110.103(a).

"Unusual or infrequently used health services" means:

(1) Those health services which are projected to involve fewer than 1 percent of the encounters per year for the entire HMO membership, or,

(2) Those health services the provision of which, given the enrollment projection of the HMO and generally accepted staffing patterns, is projected will require less than 0.25 full time equivalent health professionals.

§ 110.102 Health benefits plan: basic health services.

(a) An HMO shall provide or arrange for the provision of basic health services to its members as needed and without limitations as to time and cost other than those prescribed in the Act and these regulations, as follows:

(1) Physician services (including consultant and referral services by a physician), which shall be provided by a licensed physician, or if a service of a physician may also be provided under applicable State law by other health professionals, an HMO may provide the service through these other health professionals;

(2)(i) Outpatient services, which shall include diagnostic services, treatment services and x-ray services, for patients who are ambulatory and may be provided in a non-hospital based health care facility or at a hospital; (ii) inpatient hospital services, which shall include but not be limited to, room and board, general nursing care, meals and special diets when medically necessary, use of operating room and related facilities, use of intensive care unit and services, x-ray services, laboratory, and other diagnostic tests, drugs, medications, biologicals, anesthesia and oxygen services, special duty nursing when medically necessary, physical therapy, radiation therapy, inhalation therapy, and administration of whole blood and blood plasma; (iii) outpatient services and inpatient hospital services shall include short-term rehabilitation services when medically necessary;

(3) Instructions to its members on procedures to be followed to secure medically necessary emergency health services both in the service area and out of the service area;

(4) Twenty outpatient visits per member per year, as may be necessary and appropriate for short-term evaluative or crisis intervention mental health services, or both;

(5) Diagnosis, medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs;

(i) Diagnosis and medical treatment for the abuse of or addiction to alcohol and drugs shall include detoxification for alcoholism or drug abuse on either an outpatient or inpatient basis, whichever is medically determined to be appropriate, in addition to the other required basic health services for the treatment of other medical conditions;

(ii) Referral services may be either for medical or for nonmedical ancillary services. Medical services shall be a part of basic health services; nonmedical ancillary services (such as vocational rehabilitation and employment counseling) need not be a part of basic health services;

(6) Diagnostic laboratory and diagnostic and therapeutic radiologic services in support of basic health services;

(7) Home health services provided at a member's home by health care personnel, as prescribed or directed by the responsible physician or other authority designated by the HMO; and

(8) Preventive health services, which shall be made available to members and shall include at least the following:

(i) A broad range of voluntary family planning services;

(ii) Services for infertility;

(iii) Well-child care from birth;

(iv) Periodic health evaluation for adults;

(v) Eye and ear examinations for children through age 17, to determine the need for vision and hearing correction; and

(vi) Pediatric and adult immunizations, in accord with accepted medical practice.

(b) In addition, an HMO may include a health service described in § 110.103 as a supplemental health service in the basic health services which it provides or arranges for its members for a basic health services payment.

(c) To the extent that a natural disaster, war, riot, civil insurrection, epidemic or any other emergency or similar event not within the control of an HMO results in the facilities, personnels, or financial resources of an HMO being unavailable to provide or

arrange for the provision of a basic or supplemental health service in accordance with the requirements of this subpart, the HMO is required only to make a good-faith effort to provide or arrange for the provision of the service, taking into account the impact of the event. For purposes of this paragraph, an event is not within the control of an HMO if the HMO cannot exercise influence or dominion over its occurrence.

(d) The following are not required to be provided as basic health services:

(1) Corrective appliances and artificial aids;

(2) Mental health services, except as required under section 1302(1)(D) of the Act and paragraph (a)(4) of this section;

(3) Cosmetic surgery, unless medically necessary;

(4) Prescribed drugs and medicines incidental to outpatient care;

(5) Ambulance services, unless medically necessary;

(6) Care for military service connected disabilities for which the member is legally entitled to services and for which facilities are reasonably available to this member;

(7) Care for conditions that State or local law requires be treated in a public facility;

(8) Dental services;

(9) Vision and hearing care except as required by section 1302(1)(H)(vi) of the Act and paragraph (a)(8) of this section;

(10) Custodial or domiciliary care;

(11) Experimental medical, surgical, or other experimental health care procedures, unless approved as a basic health service by the policymaking body of the HMO;

(12) Personal or comfort items and private rooms, unless medically necessary during inpatient hospitalization;

(13) Whole blood and blood plasma;

(14) Long-term physical therapy and rehabilitation;

(15) Durable medical equipment for home use (such as wheel chairs, surgical beds, respirators, dialysis machines); and

(16) Health services which are unusual and infrequently provided and not necessary for the protection of individual health, as approved by the Secretary upon application by the HMO.

(e) An HMO may not offer to provide or arrange for the provision of basic health services on a prepayment basis which do not include all the basic health services set forth in paragraph (a) of this section or which are limited as to time and cost except in a manner prescribed by this part.

§ 110.103 Health benefits plan: supplemental health services.

(a) Each HMO may provide to its members any of the following health services, which may be limited as to time and cost:

(1) Services of facilities for intermediate and long-term care;

(2) Vision and hearing care not included as a basic health service;

(3) Dental services;

(4) Mental Health services not included as a basic health service;

(5) Long-term physical medicine and rehabilitative services (including physical therapy);

(6) Prescription drugs prescribed in the course of the provision by the HMO of basic outpatient or supplemental health services; and

(7) Other health services which are not included as basic health services.

(b) An HMO shall determine the level and scope of supplemental health services included with basic health services provided to its members for a basic health services payment or those services offered to its members as supplemental health services.

(c) An HMO is authorized, in connection with the prescription or provision of prescription drugs, to: (1) maintain, review, and evaluate a drug use profile of its members receiving these services, (2) evaluate patterns of drug utilization to assure optimum drug therapy, and (3) provide for instruction of its members and of health professionals in the use of prescription and non-prescription drugs.

Each HMO providing these services shall insure that:

(i) The program is developed jointly by the physicians and pharmacists associated with the HMO;

(ii) The objectives of the program are explained to all health professionals and members of the HMO;

(iii) Individual rights are protected and that all information regarding and identifying an individual is available only to appropriate health professionals of the HMO and to the individual member at his request;

(iv) The primary thrust of the program is optimum drug therapy for the individual member of the HMO; and

(v) The information obtained in drug utilization review is utilized in educational programs for health professionals and members of the HMO.

§ 110.104 Providers of basic and supplemental health services.

(a)(1) The HMO shall provide that the services of health professionals which are provided as basic health services will, except as provided in paragraph (e) of this section, be provided or arranged for through (i) health professionals who are staff of the HMO, (ii) a medical group or groups, (iii) an IPA or IPAs, (iv) physicians or other health professionals under direct contract with the HMO for the provision of these services, or (v) any combination of staff, medical group or groups, IPA or IPAs, or physicians or other health professionals under direct contract with the HMO.

(2) Within the 4 year period beginning with the month following the month in which an HMO becomes a qualified HMO, these services may also be provided by a non-conforming medical group. After this 4 year period, the HMO may use such an entity (a non-conforming medical group) to provide health professionals' services which are basic health services only if the Secretary determines that the principal professional activity (over 50 percent individually) of the entity's members is the coordinated practice of their profession, and if the HMO has demonstrated to the satisfaction of the Secretary that the entity is committed to the delivery of medical services on a prepaid group practice basis by either:

(i) Presenting a reasonable time-phased plan for the entity to achieve compliance with the "substantial responsibility" requirement of subparagraph (3)(i) of the definition of "medical group" in § 110.101. The HMO shall update the plan annually and shall demonstrate to the satisfaction of the Secretary that the entity is making continuous efforts and progress towards compliance with the requirements of the definition of "medical group," or,

(ii) Demonstrating that compliance by the entity with the "substantial responsibility" requirement is unreasonable or impractical because (A) the HMO serves a non-metropolitan or rural area as defined in § 110.101, or (B) the entity is a multi-specialty group which provides medical consultation upon referral on a regional or national basis, or (C) the majority of the residents of the HMO's service area are not eligible for employer-employee health benefits plans and the HMO has an insufficient number of members to require utilization of at least 35 percent of the entity's services.

(b) After the expiration of the first four fiscal years of an HMO beginning after the month in which it becomes a qualified HMO, the HMO may not, in any fiscal year, enter into contracts for basic and supplemental health services with physicians other than members of staff, medical groups, or IPAs if the amounts paid under these contracts exceed (1) 15 percent of the total

estimated amount to be paid in that fiscal year by the HMO to physicians for the provision of basic and supplemental health services by physicians, or (2) if the HMO principally serves a rural area, 30 percent of that amount. However, this paragraph does not apply to the making of contracts for the purchase of physician services through a non-conforming medical group.

(c) HMOs shall include in their contracts with health professionals, medical groups, or IPAs for the provision of basic and supplemental health services at least the following:

(1) A description of responsibilities of the parties to the contract;

(2) The agreed upon compensation for services;

(3) For medical groups and IPAs, a description of mechanisms, such as risk sharing, financial incentives, or other incentives, to be applied to monitor utilization and to control costs of basic and supplemental health services and to achieve utilization goals;

(4) Assurances that medical groups, IPAs, and health professionals associated with them will be protected by professional liability coverage, either through insurance or self-insurance;

(5) An agreement that the party contracting with the HMO (and in the case of a medical group or IPA, its members and the health professionals contracting with it) will look solely to the HMO for compensation for services provided to the HMO's members. This agreement shall not extend to copayments or payments for supplemental health services on other than a prepaid basis, but the contracting party shall not assert any claim for compensation against the members in excess of the copayments; and

(6) In the case of contracts with health professionals except for unusual or infrequently used services, provisions requiring appropriate continuing education.

(d) Staff model HMOs shall have effective procedures to monitor utilization and to control costs of basic and supplemental health services, and to achieve utilization goals.

(e) Paragraph (a) of this section does not apply to the provision of the services of a physician—(1) Which the HMO determines are unusual or infrequently used services; or

(2) Which, because of an emergency, it was medically necessary to provide to the member other than as required by paragraph (a) of this section; or

(3) Which are provided as part of the inpatient hospital services by employees or staff of a hospital or provided by staff of other entities such as community mental health centers, home health agencies, visiting nurses' associations, independent laboratories, or family planning agencies.

(f) Supplemental health services shall be provided or arranged for by the HMO and need not be provided by providers of basic health services under contract with the HMO.

(g) Each HMO shall:

(1) Pay the provider, or reimburse its members for the payment of reasonable charges for basic health services (or supplemental health services which the HMO agreed to provide on a prepayment basis) for which its members have contracted, which were medically necessary and immediately required to be obtained other than through the HMO because of an unforeseen illness, injury, or condition, as determined by the HMO.

(2) Adopt procedures to review promptly all claims from members for reimbursement for the provision of health services described in paragraph (g)(1), including a procedure for the determination of the medical necessity for obtaining the services other than through the HMO; and

(3) Provide instructions to its members on procedures to be followed to secure these health services.

§ 110.105 Payment for basic health services.

(a) Each HMO shall provide or arrange for the provision of basic health services for a basic health services payment which:

(1) Is to be paid on a periodic basis without regard to the dates these services are provided;

(2) Is fixed without regard to the frequency, extent, or kind of basic health services actually furnished;

(3) Except as provided in paragraph (c) of this section, is fixed under a community rating system, as described in paragraph (b) of this section; and

(4) May be supplemented by nominal copayments which may be required for the provision of specific basic health services. Each HMO may establish one or more copayment options calculated on the basis of a community rating system.

(i) An HMO may not impose copayment charges that exceed 50 percent of the total cost of providing any single service to its members, nor in the aggregate more than 20 percent of the total cost of providing all basic health services.

(ii) To insure that copayments are not a barrier to the utilization of health services or membership in the HMO, an HMO may not impose copayment charges on any subscriber (or members covered by the subscriber's contract with the HMO) in any calendar year, when the copayments made by the subscriber (or members) in that calendar year total 100 percent of the total annual premium cost which that subscriber (or members) would be required to pay if he (or they) were enrolled under an option with no copayments. This limitation applies only if the subscriber (or members) demonstrates that copayments in that amount have been paid in that year.

(b) Under a community rating system, rates of payment for health services may be determined on a per-person or per-family basis and may vary with the number of persons in a family. Except as otherwise authorized in this paragraph, these rates must be equivalent for all individuals and for all families of similar composition. Rates of payment may be based on either a schedule of rates charged to each subscriber group or on a per-member-per-month (or per-subscriber-per-month) revenue requirement for the HMO. In the former event, rates may vary from group to group if the projected total revenue from each group is substantially equivalent to the revenue which would be derived if the schedule of rates were uniform for all groups. In the latter event, the payments from each group of subscribers shall be calculated to yield revenues substantially equivalent to the product of the total number of members (or subscribers) expected to be enrolled from the group and the per-member-per-month (or per-subscriber-per-month) revenue requirement for the HMO. In addition, a community rating system must meet the following requirements:

(1) Rates of payment may not vary because of actual or anticipated utilization of services by individuals associated with any specific group of subscribers. These provisions do not preclude changes in the rates of payment which are established for new enrollments or reenrollments and which do not apply to existing contracts until the renewal of these contracts.

(2) Rates of payment shall reflect differences in benefits and copayment requirements.

(3) The following differentials may be established under a community rating system:

(i) Nominal differentials in rates may be established to reflect differences in marketing costs and the different administrative costs of collecting payments from the following categories of potential subscribers:

(A) Individual (nongroup) subscribers (including their families),

(B) Small groups of subscribers (100 subscribers or fewer),

(C) Large groups of subscribers (over 100 subscribers).

(ii) Differentials in rates may be established for subscribers enrolled in an HMO: (A) under a contract with a governmental authority under section 1079 ("Contracts for Medical Care for Spouses and Children: Plans") or section 1086 ("Contracts for Health Benefits for Certain Members, Former Members and their Dependents") of Title 10 ("Armed Forces"), United States Code; or (B) under any other governmental program (other than the health benefits program authorized by chapter 89 ("Health Insurance") of Title 5 ("Government Organization and Employees"), United States Code); or (C) under any health benefits program for employees of States, political subdivision of States, and other public entities.

(iii) An HMO may establish a separate community rate for separate regional components of the organization upon satisfactory demonstration to the Secretary of the following:

(A) Each regional component is geographically distinct and separate from any other regional component; and

(B) Each regional component provides substantially the full range of basic health services to its members, without extensive referral between components of the organization for these services, and without substantial utilization by any two components of the same health care facilities. The separate community rate for each regional component of the HMO must be based on the different costs of providing health services in the respective regions.

(c)(1) In the case of an entity which before it became a qualified HMO, provided comprehensive health services on a prepaid basis, the requirement of community rating shall not apply to the entity during the forty-eight month period beginning with the month following the month in which the entity became a qualified HMO.

(2) The requirement of community rating does not apply to the basic health services payment for basic health services provided a member who is a full-time student at an accredited institution of higher education.

(d) The requirements respecting the basic health services payment do not apply to the provision of basic health services to a member for an illness or injury for which the member is entitled to benefits under a workmen's compensation law or an insurance policy, but only to the extent these benefits apply to these services.

(1) For the provision of services for an illness or injury for which a member is entitled to benefits under a workmen's compensation law, the HMO may, if authorized by this law, charge or authorize the provider of the services to charge, in accordance with the charges allowed under the law: (i) the insurance carrier, employer, or other entity which under the law is to pay for the provision of the services, or (ii) the member, to the extent that the member has been paid under the law for the services.

(2) For the provision of services for an illness or injury for which a member is entitled to benefits under an insurance policy, an HMO may charge or authorize the provider of the services to charge: (i) the insurance carrier under the policy, or (ii) the member, to the extent that the member has been paid under the policy for the services.

(e) HMOs may charge a late payment penalty on accounts receivable which are in arrears.

§ 110.106 Payment for supplemental health services.

(a) An HMO may require supplemental health services payments, in addition to the basic health services payments, for the provision of each health service included in the supplemental health services set forth in § 110.103 for which subscribers have contracted, or it may include supplemental health services in the basic health services provided its members for a basic health services payment.

(b) Supplemental health services payments may be made in any agreed upon manner, such as prepayment or fee-for-service. Supplemental health services payments which are fixed on a prepayment basis, however, shall be fixed under a community rating system, unless the supplemental health services payment is for a supplemental health service provided a member who is a full-time student at an accredited institution of higher education. In the case of an entity which before it became a qualified HMO provided comprehensive health services on a prepaid basis, the community rating requirement shall not apply to that entity during the forty-eight month period beginning with the month following the month in which the entity became a qualified HMO.

(c) When the HMO provides supplemental health services on a prepayment basis for which the member is entitled to benefits under workmen's compenstation law or an insurance policy, the HMO may take the actions described in § 110.105(d) (1) or (2) (respecting charges for basic health services which are benefits under a workmen's compensation law or insurance policy) as appropriate.

§ 110.107 Availability, accessibility, and continuity of basic and supplemental health services.

Within the HMO's service area, basic health services and those supplemental health services for which members have contracted shall be:

(a) Provided or arranged for by the HMO;

(b) Available and accessible to each of the HMO's members promptly as appropriate with respect to:

(1) Geographic location, hours of operation, and provisions for after-hours services (medically necessary emergency services must be available and accessible 24 hours a day, 7 days a week); and

(2) Staffing patterns within generally accepted norms for meeting the projected membership needs; and

(c) Provided in a manner which assures continuity, including but not limited to:

(1) Provision of a health professional who is primarily responsible for coordinating the member's overall health care; and

(2) Development of a health (including medical) recordkeeping system through which pertinent information relating to the health care of the patient is accumulated and is readily available to appropriate professionals.

§110.108 Organization and operation.

Each HMO shall: (a) *Fiscally sound operation and administrative and managerial arrangements.* (1) Have a fiscally sound operation as demonstrated by:

(i) Total assets being greater than total unsubordinated liabilities (loan funds awarded or guaranteed under section 1305 of the Act which have not been disbursed to the HMO, either directly by the Secretary or by an escrow agent, are not included as assets, and loan funds awarded or guaranteed under section 1305 of the Act are not included as liabilities in this evaluation);

(ii) Sufficient cash flow to meet obligations as they become due; and

(iii) Achievement of net operating surplus, or a financial plan satisfactory to the Secretary to achieve net operating surplus within available fiscal resources. This plan is required if the HMO has not earned a cumulative net operating surplus during the three most recent fiscal years, or has not earned a net operating surplus during the most recent fiscal year, or does not have a

postive net worth, or is seeking a federal loan or loan guarantee under section 1305 of the Act. This plan shall include:

(A) a detailed marketing plan;

(B) statements of revenue and expense on an accrual basis;

(C) sources and uses of funds' statements; and

(D) balance sheets.

(iv) An approach to the risk of insolvency which allows for continuation of benefits for the duration of the contract period for which payment has been made, continuation of benefits to members who are confined on the date of insolvency in an inpatient facility until their discharge, and payments to unaffiliated providers for services rendered;

(v) The HMO procuring and maintaining in force a fidelity bond or bonds, in an amount, but not less than $100,000, as may be fixed by its policymaking body, covering every officer and employee entrusted with the handling of its funds. The bond may have reasonable deductibles, based upon the financial strength of the HMO;

(vi) The HMO securing and maintaining insurance policies or other arrangements approved by the Secretary which (i) insure the HMO against loses arising from professional liability claims and (ii) safeguard and insure its assets against fire, theft, fraud, embezzlement, and other casualty risks;

(2) Have administrative and managerial arrangements satisfactory to the Secretary, as demonstrated by at least the following:

(i) Evidence that the policymaking body exercises oversight and control over the HMO's policy and personnel to assure that management actions are in the best interest of the HMO and its membership;

(ii) Evidence that the HMO has personnel and systems which are sufficient for the HMO to organize, plan, control and evaluate the financial, marketing, health services, quality assurance program, administrative and management aspects of the HMO. At a minimum, the HMO shall be managed by an executive whose appointment and removal are under the control of the HMO's policymaking body.

(b) *Financial risk.* Assume full financial risk on a prospective basis for the provision of basic health services, except that an HMO may obtain insurance or make other arrangements:

(1) For the cost of providing to any member basic health services the aggregate value of which exceeds $5,000 in any year;

(2) For the cost of basic health services provided to its members other than through the HMO because medical necessity required their provision before they could be secured through the HMO; and

(3) For not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for that fiscal year.

(c) *Broadly representative enrollment.* After full and fair disclosure of benefits, coverage, rates, grievance procedures, location, and hours of service, and a general description of participating providers and financial condition of the HMO, offer enrollment to persons who are broadly representative of the various age, social, and income groups within its service area.

In the case of an HMO which has a medically underserved population located in its service area, not more than 75 percent of the HMO members may be enrolled from the medically underserved population unless the area in which that population resides is also a rural area.

(d) *Open enrollment.* If it has either provided comprehensive health services on a prepaid basis for a period of at least 5 years or has an enrollment of at least 50,000 members, have an open enrollment period at least once during the fiscal year next following each fiscal year in which it did not have a financial deficit. (For purposes of this paragraph, financial deficits must be reported and certified by an independent Certified Public Accountant.) The period of open enrollment shall be determined under paragraph (d)(1) of this section. During open enrollment, the HMO shall accept individuals for membership in the order in which they apply for enrollment and, except as provided in paragraph (d)(2) of this section, without regard to preexisting illness, medical condition, or degree of disability.

(1) An open enrollment period for an HMO shall be the lesser of—(i) 30 days, or

(ii) The number of days in which the organization enrolls a number of individuals at least equal to 3 percent of its total net increase in enrollment (if any) in the fiscal year preceding the fiscal year in which the open enrollment period is held. In determining the total net increase in enrollment in an HMO, the HMO need not include any individual who is (i) enrolled in the HMO through a group which had a contract or other arrangement for health care services with the HMO when the HMO was determined to be a qualified HMO, or (ii) entitled to insurance benefits under Title XVIII of the Social Security Act or to medical assistance under a State plan approved under Title XIX of that Act and was enrolled in the HMO when the HMO was determined to be a qualified HMO.

(2) An HMO is not required to enroll individuals who are confined to an institution because of (i) chronic illness, (ii) permanent injury, or (iii) other infirmity which would cause economic impairment to the HMO, as demonstrated to the satisfaction of the Secretary, if these individuals were enrolled.

(3) An HMO may defer the effective date of benefits for individuals enrolled under this paragraph for up to 90 days after the date of enrollment.

(4) An HMO may require an individual applying for membership at periods other than the required annual open enrollment period to submit to and pay for a health status questionnaire or a health examination. An HMO may deny enrollment based on results of this questionnaire or health examination.

(5) The Secretary may, under paragraph (e) of this section, waive the requirements of this paragraph for an HMO which demonstrates that compliance with the provisions of this paragraph would jeopardize its economic viability.

(e) *Waiver of open enrollment.* In order to obtain a waiver under paragraph (d)(5) of this section, the HMO shall submit documentation that it has prospectively determined on an actuarial basis, using data available in the area or from similar organizations elsewhere, that the average utilization of services of potential individual members would so increase costs as to jeopardize the economic viability of the organization if it maintained an open enrollment period.

(f) *Health status and enrollment.* Not expel or refuse to reenroll any member because of his health status or his health care needs, nor refuse to enroll individual members of a group on the basis of the health status or health care needs of those individuals. For purposes of this paragraph, a "group" is an entity which consists of members who enroll in the HMO through a contract or other arrangement which provides for the enrollment of two or more subscribers.

(g) *Conversion of membership.* Offer each subscriber leaving a group a membership agreement on the same terms and conditions as are available to a nongroup subscriber;

(h) *Policymaking body.* Be organized in such a manner that assures that:

(1) In the case of a private HMO, no later than one year after becoming operational as a qualified HMO, at least one-third of the membership of its policymaking body will be members of the HMO.

(i) No member having ownership of or financial interest in, or employed by, or gaining financial reward from direct dealings with, the HMO or a plan-affiliated institution or organization, and no members of the immediate family of such a member shall be included in the minimum one-third member representation on the policymaking body. However, none of the foregoing prohibits the payments of directors' fees or other similar fees, or interest and dividends derived from membership in an HMO cooperative, to persons serving on the policymaking body.

(ii) There shall be equitable representation on the member portion of the policymaking body of members from the medically underserved populations served by the HMO in proportion to their enrollment relative to the entire enrollment; except that if the membership from these medically underserved populations is at least 5 percent of the total enrollment, then those populations shall not be without representation.

(2) In the case of a public HMO, have an advisory board to its policymaking body operating the HMO which board meets the requirements of subparagraph (1) of this paragraph, and to which may be delegated policymaking authority for the HMO.

(i) *Grievance procedures.* Be organized in a manner that provides meaningful procedures for hearing and resolving grievances between the HMO (including the staff of the HMO, the medical group, and the IPA) and the members of the HMO. These procedures shall assure that: (1) grievances and complaints will be transmitted in a timely manner to appropriate decision-making levels within the HMO which have authority to take corrective action; and (2) appropriate action will be taken promptly, including a full investigation if necessary and notification of concerned parties as to the results of the HMO's investigation.

(j) *Quality assurance program.* Have organizational arrangements, emphasizing quality health care, for an ongoing quality assurance program for its health services which:

(1) Stresses health outcomes to the extent consistent with the state of the art;

(2) Provides review by physicians and other health professionals of the process followed in the provision of health services;

(3) Uses systematic data collection of performance and patient results, provides interpretation of these data to its practitioners, and institutes needed change;

(4) Is designed in a manner likely to meet the standards established under section 1155(e) of the Social Security Act (i.e., Professional Standards Review) for services provided by hospitals and other operating health care facilities or organizations; and

(5) Includes written procedures for taking appropriate remedial action whenever it is determined that inappropriate or substandard services have been provided or that services which should have been furnished have not been provided;

(k) *Certification of providers.* Assure that providers through which the HMO provides basic and supplemental health services are either (1) certified under Title XVIII of the Social Security Act (Medicare) in accordance with 42 CFR Part 405; or (2) certified in accordance with the regulations governing participation of providers in the Medical Assistance Program under Title XIX of the Social Security Act (Medicaid); or (3) in the case of hospitals, are accredited by the Joint Commission on Accreditation of Hospitals or by Medicare. In addition, clinical laboratories subject to section 353 of the Clinical Laboratories Improvement Act shall, unless exempted thereunder, be certified in accordance with regulations governing participation of clinical laboratories under titles XVIII and XIX.

(l) *Continuing education of health professionals.* Provide, or make arrangements for, continuing education for its health professional staff;

(m) *Health education.* In support of the provision of health services, actively provide its members the following:

(1) Health education services and education in the appropriate use of health services and in the contribution each member can make to the maintenance of his own health;

(2) Instruction in personal health care measures;

(3) Information about its services, including recommendations on generally accepted medical standards for use and frequency of its services; and

(4) Nutritional education and counseling;

(n) *Medical social services.* In support of the provision of health services, offer its members medical social services, which shall include appropriate assistance in dealing with the physical, emotional and economic impact of illness and disability. These services may include pre- and post-hospitalization planning, referral to services provided through community health and social welfare agencies, and related family counseling;

(o) *Reporting and disclosure requirements.* (1) Provide an effective procedure, while safeguarding the confidentiality of the doctor-patient relationship, to develop, compile, evaluate, and report, at such times and in such manner as the Secretary may require, to the Secretary, to its members, and to the general public, statistics and other information relating to:

(i) The cost of its operations;

(ii) The patterns of utilization of its services;

(iii) The availability, accessibility, and acceptability of its services;

(iv) To the extent practical, developments in the health status of its members;

(v) Information demonstrating that the HMO has a fiscally sound operation;

(vi) Other matters as the Secretary may require;

(2) Report to the Secretary annually, within 180 days of the end of its fiscal year (unless for good cause shown, the Secretary authorizes an extension of time):

(i) The information required to be reported by disclosing entities under regulations implementing section 1124 of the Social Security Act (see 42 CFR 405.603–3);

(ii) A description of the following transactions between the HMO and a party in interest, and a justification that the costs of these transactions do not exceed the costs which would be incurred if these transactions were to be with someone who is not a party in interest unless such higher costs are consistent with prudent management and fiscal soundness requirements:

(A) Sale or exchange, or leasing of property;

(B) Furnishing for consideration of goods, services (including management services, but excluding health services provided to members by staff, medical groups, IPAs, or any combination thereof), or facilities; and

(C) Lending of money or other extension of credit.

(3) Report to the Secretary, upon request, within 35 days of the date of the request, and to its members upon reasonable request, the information required to be supplied under regulations implementing section 1902(a)(38) of the Social Security Act (see 42 CFR 455.105);

(4)(i) Report to the Secretary annually, within 180 days of the end of its fiscal year (unless for good cause shown, the Secretary authorizes an extension of time), a combined financial statement for the organization and such entity if:

(A) Thirty-five percent or more of the costs of operation of the HMO go to a party in interest; or

(B) Thirty-five percent or more of the revenue of a party in interest is from the HMO.

The combined financial statements shall display in separate columns the financial information for the HMO and each of these parties in interest. Inter-entity transactions shall be eliminated in the consolidated column. These statements shall be prepared by an independent auditor in accordance with generally accepted accounting principles, and shall include appropriate opinions and notes.

(ii) The Secretary may, upon a written request from an HMO and for good cause shown, waive the requirement that its combined financial statement include the financial information required in this paragraph with respect to a particular entity.

(p) *Human dignity.* Be organized and operated in a manner intended to preserve human dignity;

(q) *Confidentiality of health records.* Establish adequate procedures to insure confidentiality of its members' health (including medical) records; and

(r) *Referral information.* Make arrangements either directly or through its providers to assure that the HMO or the health professional coordinating the member's overall health care is kept informed about the services provided to its members by referral resources.

§ 110.109 Special requirements: Titles XVIII and XIX of the Social Security Act.

(a) As provided in section 1307(d) of the Act, an HMO which otherwise complies with section 1301(b) and section 1301(c) of the Act, and with the applicable regulations of this subpart, and which enrolls members who are entitled to insurance benefits under Title XVIII of the Social Security Act or to medical assistance under a State plan approved under Title XIX of that Act, may still be considered as an HMO, if with respect to its Title XVIII and Title XIX members it provides services and is operated as required by Title XVIII or XIX, as appropriate, and regulations thereunder.

(b) Notwithstanding any inconsistent requirements of this subpart, an HMO which enters into a contract with the Secretary under Title XVIII of the Social Security Act or with a State under Title XIX of that Act shall, with respect to its members entitled to insurance benefits or medical assistance under those titles, comply with the applicable Title XVIII or Title XIX requirements, including deductible and coinsurance requirements, enrollment mix and enrollment practice requirements, in accordance with the provisions of Title XVIII or the Title XIX State plan of the State with which it is contracting. Copayment options which are not in accordance with the Title XIX State plan may not be imposed on Title XIX enrollees.

(c) Any grievance procedures authorized under Title XVIII or Title XIX of the Social Security Act are not superseded by the provisions of § 110.108(i).

§ 110.110 Special requirements: Federal Employee Health Benefits Program.

An entity which provides health services to a defined population on a prepaid basis and which has members who are enrolled under the health benefits program authorized by chapter 89 of Title 5, United State Code, may be considered as an HMO for purposes of receiving assistance under this Part if with respect to its other members it (a) provides health services in accordance with section 1301(b) of the Act and the applicable regulations of this Part and (b) is organized and operated in the manner prescribed by section 1301(c) of the Act and the applicable regulations of this Part.

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Wednesday
July 18, 1979

Part III

Department of Health, Education, and Welfare

Public Health Service

Health Maintenance Organizations; Federal Financial Assistance: General

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 110

Health Maintenance Organizations; Federal Financial Assistance: General

AGENCY: Public Health Service, HEW.

ACTION: Final regulations.

SUMMARY: These regulations set forth the requirements for the award of grants, loans, and loan guarantees to public and private entities for feasibility surveys, planning and initial development activities and initial operating costs of health maintenance organizations under Title XIII of the Public Health Service Act (the Act). In addition, these regulations set forth provisions designed to assist health systems agencies (HSAs) and State health planning and development agencies (SHPDAs) in evaluating the special needs and circumstances of health maintenance organizations (HMOs).

EFFECTIVE DATE: These regulations are effective on July 18, 1979. Comments are invited through September 17, 1979 on one proposed amendment to the regulations, as set forth more fully below under "Supplementary Information."

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: On March 17, 1978, a Notice of Proposed Rulemaking was published in the **Federal Register** (43 FR 11472–6), proposing to amend 42 CFR Part 110, Subpart B. Interested persons were invited to submit written comments, suggestions, or objections on or before May 16, 1978. Ten organizations submitted timely comments, and two comments were received shortly after the end of the comment period. All comments were considered in developing these final regulations. A number of comments were favorable and suggested no changes; others suggested multiple changes in the proposed regulations. However, suggested changes in the regulations that were inconsistent with the present HMO law were rejected. In addition, the HMO Amendments of 1978 (Pub. L. 95–559), enacted November 1, 1978, made a number of changes to Title XIII of the Act which are reflected in the final regulations. The comments received, the Department's responses to them, and changes that have been made in the regulations are discussed below.

Changes Adopted in Final Regulations

Set forth below are changes that have been adopted in the final regulations:

1. § 110.201 has been amended by making these regulations applicable to loans and loan guarantees made under section 1305A of the Public Health Service Act (the Act), which was added to title XIII of the Act by section 5(a) of Pub. L. 95–559 (the Health Maintenance Organization Amendments of 1978). Section 1305A(a) authorizes the Secretary to make loans to public and nonprofit private HMOs, and to guarantee loans to nonprofit HMOs for projects for the acquisition or construction of ambulatory health care facilities, and for the acquisition of equipment for these facilities, and to private HMOs for such projects which will serve medically underserved populations. Although the Secretary has not yet issued separate regulations to implement section 1305A, he is adding the reference to that section in § 110.201 so that the general provisions of this subpart will apply to loans and loan guarantees under section 1305A when that section is implemented.

2. Several grammatical and spelling changes have been made in § 110.203.

3. Section 110.203(k). (Renumbered as § 110.203(h).) One commenter suggested that applicants be required to forward to the appropriate HSA data which has not previously been provided to the HSA. In accordance with section 1306(b) of the Act, § 110.203(h) provides that an organization making multiple applications for more than one grant, loan, or loan guarantee is not required to submit duplicate or redundant information, but is required to update previously submitted applications as prescribed in regulations by the Secretary. In addition, in response to the comment, the following language has been added at § 110.203(h): "Upon receiving a written request, the HMO shall submit to the appropriate planning agency referred to in paragraph (e) any previous applications for grants, loans, or loan guarantees under Title XIII of the Act not already submitted to that agency." The Secretary notes that a request by a planning agency for the submission of these previous applications by an HMO does not affect the 67 day limit for the submission of planning agency comments under § 110.204(a).

4. Section 110.204(a). One commenter proposed that HSAs and SHPDAs be required to submit their comments and recommendations concerning applications for financial assistance under Title XIII of the Act (see section 1306(b)(5) of the Act) to the Secretary within 60 days from the date an application is received. Since review and comment by HSAs concerning these applications is not required by Title XIII, the proposed regulations stated that the appropriate agency *should* submit its comments within 60 days. However, the Secretary has clarified the regulations to indicate that he will only consider an HSA's or SHPDA's comments and recommendations if they are submitted within 67 days. (The Secretary has added the extra seven days to conform to the Department's proposed rules on review and approval by HSAs, discussed below. Those proposed rules provide that HSAs will have seven days to give notification of the start of a review, in addition to 60 days to conduct the review.)

The Secretary also calls attention to the requirement of section 1513(e) of the Act that HSAs review and approve or disapprove certain proposed uses of Federal funds within their areas. On May 9, 1978, the Department issued a Notice of Proposed Rulemaking to implement this provision. (43 FR 19988–97). Financial assistance under Title XIII falls within the scope of section 1513(e). Thus, when final regulations are issued to implement that provision, and an HSA has assumed the review and approval function, the separate review and comment function under § 110.204 will no longer be necessary for that HSA and will not be required.

5. Section 110.204(c). Another commenter suggested that the health planning agencies be required to share information with any current applicant when requesting the Secretary to approve additional considerations for review and comment. This suggestion has been incorporated into these final regulations. The HSA (or the SHPDA) is now required to send to all current applicants for financial assistance under Title XIII a copy of its request for permission to use additional considerations in reviewing applications for Federal financial assistance under this Part. Since there may be a need for the applicant to make additional information available to the review agency, this requirement should facilitate communications between applicants and the review agency.

6. Section 110.207. (This section was § 110.209 in the proposed regulations.) One commenter proposed adding language to remedy a possible conflict between two sections in the proposed regulations relating to the confidentiality of individual patient records. A change has been made in § 110.207(a) to clarify that the Federal government's right to

use, duplicate, or disclose data developed by the applicant during this period does not extend to data which is confidential under § 110.208. Additionally, a new paragraph, § 110.208(c), has been added to point out that under 42 CFR § 2.12(a) the HEW confidentiality regulations with respect to alcohol and drug abuse patient records apply to HMOs in a number of situations, for example, where alcohol or drug abuse treatment and related services are directly or indirectly assisted by any department or agency of the United States.

7. In order to conform these regulations to 45 CFR Part 74, "Administration of Grants," and to simplify the regulations in accordance with the Department's Operation Common Sense, the Secretary has deleted or revised the following sections which appeared in the proposed regulations: § 110.203(a), § 110.203(b), § 110.203(c), § 110.207, § 110.208, § 110.209(a)(1), § 110.209(a)(3), § 110.211, § 110.212, § 110.213(a) and § 110.213(b).

8. The Secretary has also revised the definition of "significant expansion" of the membership of an HMO (§ 110.202) by relaxing the requirement that to qualify for "significant expansion" assistance, the HMO must propose an increase in membership which exceeds the HMO's average growth rate. The regulations now require that this increase be a "substantial" one. Upon reexamination of the legislative history of Pub. Law 93–222, which enacted Title XIII of the Public Health Service Act (see H.R. Rep. No. 93–451, 93d Cong. 1st Sess., Aug. 10, 1973, p. 27), the Secretary has concluded that this more flexible definition is more in keeping with the Congressional intent in authorizing assistance for "significant expansion" projects.

A definition of "expansion of services" has also been added to § 110.202 because financial assistance may, in accordance with section 1304(a)(2) as amended by the HMO Amendments of 1978, be provided for initial development projects for the expansion of the services of an HMO.

Change Proposed for Final Regulations

The Secretary proposes to amend the regulations by adding a requirement that for projects funded under sections 1303 and 1304 of the Act (feasibility studies, planning, and initial development projects), one element of an approvable application is that the project director be approved by the Secretary. The Secretary believes that the ability of the project director is a major factor in determining the potential success of the project. The addition of this requirement will also better permit him to allocate the limited resources available for support of these projects. Interested persons are invited to submit written comments on this proposed amendment to Howard R. Veit at the address shown above. Comments received by September 17, 1979 will be considered in the preparation of the final amendment.

Suggested Changes Rejected for Final Regulations

The Secretary has rejected the following suggested changes because it is felt that the requirements of the proposed regulations are adequate:

1. Section 110.202. A commenter asked who determines whether an applicant is eligible for assistance for significant expansion, and who determines an HMO's service area. As indicated in the definition of "significant expansion" at § 110.202, only organizations which have been found by the Secretary to be qualified HMOs are eligible to apply for assistance for expansion under sections 1303 and 1304 of the Act. Under this provision, eligible HMO applicants are required to describe their planned increase in membership. This information is evaluated and verified during the review conducted by the appropriate HEW Regional Office and the Office of Health Maintenance Organizations.

In addition, the service area of an HMO is reviewed and approved during the qualification review, and this information is published in the **Federal Register.** Any subsequent changes in the approved service area must be approved by the Secretary. Notice of these changes is also published in the **Federal Register.**

2. Section 110.203. One commenter expressed concern about the organization of the proposed rules, suggesting extensive changes in the application requirements, project requirements, and funding preferences. These proposed rules, with minor exceptions, simply restated the requirements of the regulations which have been in effect since 1974, and since these requirements have gained wide acceptance by applicants, the Secretary has rejected the suggested changes. The Secretary also believes that the regulations are clear and properly organized and need no major revision as suggested.

3. Section 110.203(d). (Renumbered as § 110.203(a).) A commenter expressed concern about this provision, which allows the Secretary discretionary authority to exempt an applicant from submitting an audited full financial statement as part of its application. This provision has been retained because these exemptions are appropriate for newly organized entities with minimal assets and liabilities which are applying for feasibility grants under the Act.

4. Section 110.203(d). (Renumbered as § 110.203(a).) Another commenter expressed concern that the requirement that an applicant for a loan or loan guarantee seek loan assistance from at least two public or private lenders before requesting Federal financial assistance is too "liberal." This provision has not been changed because it implements section 1306(b)(2) of the Act, which provides that the Secretary may not approve an application for a grant, loan, or loan guarantee under Title XIII unless he determines that the applicant could not complete the project without Federal assistance. The Secretary believes that requiring the HMO to seek non-Federal loan assistance first is an appropriate way to implement this provision of the statute.

5. Section 110.203(g). (Renumbered as § 110.203(d).) A commenter suggested that the medically underserved areas referred to in this section should be congruent with the health manpower shortage areas referred to in section 332 of the Public Health Service Act. While the list of medically underserved areas developed by the Secretary under section 1302(7) of the Act serves a different purpose from the health manpower shortage areas designated under section 332 of the Act, the Secretary notes that these latter areas may, under certain circumstances, also be designated as medically underserved. The current list of medically underserved areas was published in the **Federal Register** on October 15, 1976 (41 FR 45718–77). Information on specific designated areas may be obtained by writing the Regional Health Administrator in the appropriate Regional Office of DHEW at the addresses listed at 45 CFR 5.31(b).

6. Section 110.203(g) (Renumbered as § 110.203(d).) One commenter expressed concern that the ratio of primary care physicians to population is an inappropriate factor for determining medically underserved areas (MUAs), since it does not readily correspond to actual access to and availability of resources. The Secretary disagrees and notes his view that this factor is a sound basis for measuring medical underservice. Moreover, the ratio of primary care physicians to population is but one of at least four factors used in the formula for identifying MUAs.

In developing the current list of MUAs, the Secretary is required under

section 1302(7) of the Act to consider comments, if any, from the appropriate State health planning and development agency and health systems agency. These agencies may at any time recommend changes in the list of MUAs to reflect local knowledge of medical underservice. Because an area can have unusual conditions which reduce the availability or accessibility of primary care, the Secretary solicited information from these agencies concerning any such conditions. Based on this information, he adjusted the current list of MUAs to reflect accessibility factors such as physical barriers, road conditions, weather conditions, distance to and accessibility of sources of primary care, and relevant socioeconomic factors.

7. Section 110.204. A number of commenters questioned the proposed review and comment standards for planning agencies. Their criticisms were that: (1) the limited criteria would, in effect, exempt HMOs from cost containment considerations applicable to other areas of the health care industry; (2) the limitation of the criteria with which local planning agencies may review and comment on proposed HMO services would "undermine" local health planning; and (3) the proposed regulations would forbid the HSA to consider the criteria that the Secretary must consider in making awards under Sections 1303, 1304, and 1305 of the Act. The commenters claimed that these factors would not only restrict HSAs by limiting their planning prerogatives, but also would exempt HMOs from the health planning process.

The Secretary notes that the proposed rules were developed in response to the provisions of section 1532(c) of the Act, as amended by Pub. L. 94-460. That section states in pertinent part: "The criteria established by a health systems agency or State agency under paragraph (8) shall be consistent with the standards and procedures established by the Secretary under section 1306(c) of this Act." The conference report on this public law (H.R. Rep. No. 94-1513, dated September 13, 1976, page 37) makes it clear that "projects for the development and expansion of HMOs and their services should be judged on the basis of the need for HMOs and the need for their services for their enrolled members and reasonably anticipated new members and not on the need for the services in general if proposed by non-HMO providers."

In addition, the report states that "certificate of need determinations should be made during the planning stage of the HMO's development. This is to prevent up to $1 million of initial development funds being awarded only to have a certificate of need denied, or the need for an HMO questioned by antagonistic groups late in the HMO's development sequence." Based on the language of section 1532(c)(8) and the Conference Report, the Secretary developed these standards and included the same regulatory language used in both these regulations and those proposed for 42 CFR Part 122, Subpart D, and Part 123, Subpart E. (Criteria and procedures for HSA and SHPDA reviews of new institutional health services; 43 FR 11229-42). The Secretary also notes that § 110.204(c) provides that the agencies may use considerations in addition to those set forth at § 110.204(a) if consistent with the purposes of Title XIII of the Act and approved by the Secretary.

8. Section 110.205. One comment was received on the records, reports, inspection, and audit provision, suggesting that the data which the Secretary may require to be submitted in additional reports be limited to aggregate data on clients, utilization categories or expenditures. This suggestion has been rejected, because it would not provide the Secretary an adequate basis for carrying out his audit and evaluation responsibilities.

The Assistant Secretary for Health of the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, amends 42 CFR Part 110, Subpart B, as set forth below.

Dated: May 16, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: June 30, 1979.

Hale Champion,

Acting Secretary.

Subpart B—Federal Financial Assistance: General

Sec.

110.201 To whom do these regulations apply?
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110.210 For what are grantees accountable?
110.211 What obligation does the United States have to continue support for an approved project?
110.212 What is the effect of a grantee's change from non-profit to for-profit status?

Authority.—Sec. 215, 58 Stat. 690, (42 U.S.C. 216); secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-300e-17).

Subpart B—Federal Financial Assistance: General

§ 110.201 To whom do these regulations apply?

The regulations of this subpart apply to the award of grants, loans, and loan guarantees to public or private entities for projects as authorized by sections 1303, 1304, 1305, and 1305A of the Act.

§ 110.202 Definitions.

"Expansion of services" means (1) the addition of any health service not previously provided by or through the HMO, which requires an increase in the facilities, equipment, or health professionals of the HMO, or (2) the improvement or upgrading of existing facilities or equipment, or an increase in the number or categories of health professionals, of the HMO so that the HMO may provide directly services which it previously provided through contract or referral or which it could not previously provide with its existing facilities or equipment.

"Health system agency" means an entity which has been designated in accordance with section 1515 of the Public Health Service Act; and the term "State Health planning and development agency" means an agency which has been designated in accordance with section 1521 of the Act.

"Nonprofit" as applied to a private entity, agency, institution, or organization means a private entity, agency, institution, or organization, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Significant expansion" means (1) a planned substantial increase in membership of the HMO which will require an increase in the number of health professionals serving members of the HMO or an expansion of the physical capacity of the HMO's total health facilities; or (2) a planned expansion of the service area beyond the current service area which would be made possible by the addition of health service delivery facilities and health professionals to serve members at a new

site or sites in areas previously without service sites. Only organizations which have been found by the Secretary to be qualified HMOs are eligible to apply for assistance for expansion under sections 1303 and 1304 of the Act.

§ 110.203 What are the requirements for an application?

(a) *Financial information.* In addition to complying with requirements set forth in the appropriate forms for applying for financial assistance under this part, applicants must submit an audited full financial statement unless exempted by the Secretary. Except for an application under section 1303 of the Act, an applicant whose financial statement shows unobligated cash assets which presumably could be used to conduct all or part of the project or undertaking for which application is made must also submit a detailed statement satisfactory to the Secretary stating why the unobligated cash assets of the applicant are not available or are inadequate for the planned project. (The only assets of the applicant which need be considered in this regard are assets other than those to be used to meet the applicant's contribution requirements and other than those the obligation of which for the project the Secretary determines would jeopardize the applicant's fiscal soundness.) An applicant for a loan or loan guarantee shall also submit a written verification from at least two public or private lending agencies or institutions demonstrating that, after a formal request—

(1) Funds have been denied in the amount requested in the application; or

(2) Funds in the amount requested in the application are available only at an interest rate in excess of those currently in effect for the loan or loan guarantee program, as appropriate, on the date of the application. On the basis of the information submitted, the Secretary will determine whether the applicant would not be able to complete the project or undertaking for which the application is submitted without the assistance applied for.

(b) *Assurances.* Each application must contain the following assurances, as appropriate, which are binding on successors, assignees, and transferees of the applicant, as well as the applicant:

(1) In the case of an application for assistance under section 1303 of the Act, if the survey or other activity supported demonstrates that the development and operation or the expansion of the operation of an HMO is feasible, the applicant will be, or will form, or expand the operation of, as appropriate, an HMO;

(2) In the case of an application for assistance under section 1304 of the Act, the applicant will develop and operate or expand the operation of, as the case may be, an HMO;

(3) When operational as an HMO, the applicant will (i) provide basic health services to its members, (ii) provide these services in the manner prescribed by section 1301(b) of the Act and by the regulations of this part, and (iii) be organized and operated in the manner prescribed by section 1301(c) of the Act and by the regulations of this part;

(4) When operational as an HMO, the applicant will enroll, and maintain an enrollment of, the maximum number of members that is available and potential resources will enable it to serve effectively. Maximum number of members is defined as the actual or projected enrollment which the HMO can serve, considering the availability of the required health manpower in the area to be served by the organization and the capacity of the facilities of the organization;

(5) A statement of intent (including evidence of the applicant's ability) to meet the requirements of paragraphs (1) and (2) of section 1301(b) of the Act and the applicable regulations of this part respecting the fixing of payments for basic health services and supplemental health services for which the member has contracted on a prepayment basis under a community rating system; and

(6) In the case of an application for assistance under sections 1304 and 1305 of the Act filed by a nonprofit entity, the applicant will become a nonprofit HMO, will maintain its nonprofit status unless for good cause shown the Secretary releases the applicant from this assurance, and will upon a change in its nonprofit status notify the Secretary immediately.

(c) *Nonmetropolitan areas.* Each application which evidences or projects an enrollment of at least 66 percent from a nonmetropolitan area shall identify the area and indicate the percent of anticipated enrollment to be drawn from that area.

(d) *Medically underserved areas.* Each application which evidences or projects an enrollment of at least 30 percent of its members from a medically underserved population when the HMO first receives financial assistance or becomes operational shall identify the area in which that population resides, the total population of that area, and the percent of anticipated enrollment to be drawn from the medically underserved area. Medically underserved areas are designated by the Secretary taking into consideration at least the following factors:

(1) Ratio of primary care physicians to population;

(2) Infant mortality rate;

(3) Percentage of the population which is age 65 or over; and

(4) Percentage of the population with family income below the poverty level.

The Secretary will designate these areas only after consideration of the comments, if any, of the appropriate health systems agency or State health planning and development agency whose plan covers any part of the area in which the population group resides.[1]

(e) *Health planning agency reviews.* Each applicant must show in its application that it has sent to each health systems agency whose health service area covers any part of the area to be served by the HMO for which the application is submitted (or if there is no such agency, the State health planning and development agency whose State includes any part of the area to be served) a copy of the application concurrent with its submission to the appropriate Regional Office of the Department of Health, Education, and Welfare. The agency may then review and comment on the application in accordance with § 110.204.

(f) *Health planning agency approvals.* If applicable State law provides that the application may not be submitted without the approval of the health systems agency, or State health planning and development agency, the applicant shall obtain this approval which must be included as a part of the application.

(g) *Other projects under the Public Health Service Act.* The application shall provide written information describing the applicant's development and operation of any prior projects which were supported by grants or by loans or loan guarantees under Title XIII of the Act. Applicants must also describe projects for the planning or operation of health service delivery programs supported under any other titles of the Public Health Service Act, or for which applications under the Act are currently under consideration.

(h) *Other applications under Title XIII of the Act.* Applicants for more than one grant, loan, or loan guarantee under Title XIII of the Act, simultaneously or over the course of time, are not required to submit duplicate information, but shall indicate where the information was previously contained and shall

[1] A list of medically underserved areas already designated may be obtained by writing the Regional Health Administrator in the appropriate Regional Office of the Department of Health, Education, and Welfare at the addresses set forth at 45 CFR 5.31(b).

update appropriate information with each subsequent application. Upon receiving a written request, the HMO shall submit to the appropriate planning agency referred to in paragragph (e) any previous applications for grants, loans, or loan guarantees under Title XIII of the Act not already submitted to that agency.

§ 110.204 What are the standards and procedures for review and comment by the appropriate health systems agency or State health planning and development agency?

(a) *Time, manner, and considerations for review and comment.* If the appropriate health systems agency or State health planning and development agency elects to review and comment upon the application, it shall within 67 days after receiving an application for financial assistance under this part provide to the Secretary, through the appropriate Department of Health, Education, and Welfare Regional Office, comments and recommendations regarding the application. Except as provided in paragraph (c) of this section, the agency shall base its review and comment solely on the following considerations:

(1) The needs of enrolled members and reasonably anticipated new members of the HMO or proposed HMO applying for assistance for the health services proposed to be provided by the organization.

(2) The availability of the proposed health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO or proposed HMO applying for assistance. In assessing the availability of health services from these providers, the agency shall consider only whether the services from these providers:

(i) Would be available under a contract of at least five years duration;

(ii) Would be available and conveniently accessible through physicians and other health professionals associated with the HMO or proposed HMO (for example: Whether physicians associated with the HMO have or will have full staff privileges at a non-HMO hospital);

(iii) Would cost no more than if the services were provided by the HMO or proposed HMO; and

(iv) Would be available in a manner which is administratively feasible to the HMO or proposed HMO.

(b) *Inappropriate considerations for review and comment.*

(1) The health systems agency or State health planning and development agency should not recommend against approval of an application solely because there is an HMO of the same type, as specified in section 1310(b) of the Act, in the same area, or solely because the services being reviewed are not discussed in the applicable health systems plan, annual implementation plan, State health plan, or State medical facilities plan.

(2) The health systems agency or State health planning and development agency should not recommend against approval of an application for financial assistance for planning or initial development or initial operating costs under subparts D and E of this part, which is consistent with the basic objectives, time schedules, and plans of an application which it previously approved or recommended for approval.

(c) *Additional considerations for review and comment.* A health systems agency or State health planning and development agency may propose to the Secretary that it be permitted to base its reviews and comments on additional considerations not set forth in paragraph (a) of this section. Any agency making such a request for permission to use additional considerations shall do so in writing, specifying the reasons for the proposal, and shall send a copy of the request to any applicants for financial assistance under this part whose applications are then being reviewed by the agency. No pending reviews may be delayed because the agency has submitted such a request to the Secretary. The Secretary will approve the request if he finds the additional considerations to be consistent with the purpose of Title XIII of the Act. Unless the Secretary has approved the use of the additional considerations, the agency shall base its reviews and comments solely on the considerations set forth in paragraph (a) of this section.

§ 110.205 What records must be maintained and what reports must be submitted?

(a) Each grant, loan, or loan guarantee awarded under this part is subject to the condition that the recipient shall maintain records which disclose the amount and disposition of the proceeds of the grant, or loan (directly made or guaranteed), the total cost of the undertaking in connection with which the assistance was given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and any other records which will facilitate an effective audit.

(b) The recipient of a grant, loan, or loan guarantee under Title XIII of the Act shall submit a report to the Secretary not later than 90 days after the termination date of each project, describing existing and anticipated plans, developments and operations in accordance with information required under section 1306(b)(3) of the Act.

(c) The recipient shall submit any other reports which the Secretary may require to meet the provisions of the Act and these regulations.

§ 110.206 What additional conditions may the Secretary impose?

The Secretary may, with respect to the approval of any grant, contract, loan, or loan guarantee, impose additional conditions prior to or at the time of any approval when, in his judgment, these conditions are necessary to assure or protect the advancement of the approved project, the interests of public health, or the conservation of project funds.

§ 110.207 What are the government's rights with respect to data developed during the term of Federal financial assistance.

(a) Except for information which is confidential under § 110.208, the government may use, duplicate, or disclose in any manner and for any purpose whatsoever, and have or permit others to do so, all data developed during the term of Federal financial assistance.

(b) Whenever the recipient of assistance under this part will obtain any data from a contractor or subcontractor under a project assisted under this part, it shall include the provisions of this section, of § 110.208, and of 45 CFR § 74.145 (a), (b), and (c) in the contract or subcontract without alteration, making them applicable to the subject matter of the contract or subcontract, and no other clause shall be used to diminish the government's right in that contractor's or subcontractor's data.

(c) As used in this section, the term "data" means writings, films, sound recordings, pictorial reproductions, drawings, designs or other graphic representations, procedural manuals, forms, diagrams, work-flow charts, equipment descriptions, data files and data processing or computer programs, and works of any similar nature (whether or not copyrighted or copyrightable) which are developed during the term of Federal financial assistance.

§ 110.208 What confidentiality requirements apply?

(a) Except as set forth in paragraph (b) of this section, each recipient of

assistance under this part shall hold confidential all information obtained by its personnel about participants in the project related to their examination, care, and treatment and shall not divulge it without the individual's authorization, unless it is required by law or is necessary to provided service to the individual or in compelling circumstances to protect the health or safety of an individual.

(b) Information may be disclosed in summary, statistical, or other form which does not identify particular individuals. Information may be disclosed, whether or not authorized by the participants, to the Secretary or the Comptroller General if it is necessary for the performance of their duties under the Act. Records pertaining to project participants may be disclosed, whether or not authorized by the participants, to qualified personnel for the purpose of conducting scientific research, but these personnel may not identify, directly or indirectly, any individual participant in any report of the research or otherwise disclose participant identities in any manner.

(c) Separate HEW regulations at 42 CFR Part 2, set forth standards for maintaining the confidentiality of alcohol and drug abuse patient records. Under § 2.12 of the regulations, the applicability of these requirements extends, for example, to all HMOs which have received a loan from the Secretary under Section 1305 of the Act or which have been granted a tax exempt status by the United States Internal Revenue Service. To the extent that an HMO subject to Part 2 would be authorized under paragraph (b) of this section to make a disclosure prohibited by Part 2, the provisions of Part 2 would control.

§ 110.209 What other HEW regulations apply?

(a) The following HEW regulations also apply to grants under this part:

45 CFR Part 16 Department grant appeals process.

45 CFR Part 74 Administration of grants.

45 CFR Part 80 Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare—Effectuation of Title VI of the Civil Rights Act of 1964.

45 CFR Part 84 Nondiscrimination on the basis of handicap in Federally assisted programs.

(b) The following HEW regulations also apply to loans and loan guarantees made under this subpart:

45 CFR Part 80 Nondiscrimination under programs receiving Federal assistance through the Department of Health, Education, and Welfare—Effectuation of Title VI of the Civil Rights Act of 1964.

45 CFR Part 84 Nondiscrimination on the basis of handicap in Federally assisted programs.

§ 110.210 For what are grantees accountable?

If a grantee under this part fails to become a qualified HMO in accordance with Subpart F of this Part, or fails to remain a qualified HMO, the grantee shall be accountable to the Secretary for all unexpended grant funds and for the then value of all items of real or nonexpendable personal property purchased with grant funds, in addition to all other amounts due under 45 CFR Part 74. This total sum constitutes a debt owed by the grantee to the Federal Government, and the Government may recover it from the grantee or its successors or assignees by setoff or other action as provided by law.

§ 110.211 What obligation does the United States have to continue support for an approved project?

Neither the approval of any project nor any award of financial assistance commits or obligates the United States to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, applicants must make separate applications as the Secretary may direct.

§ 110.212 What is the effect of a grantee's change from non-profit to for-profit status?

(a) Any non-profit private entity which received a grant under section 1304 of the Act and which becomes a for-profit private entity, shall notify the Secretary of this change of status within 30 days of the change.

(b) Unless the Secretary determines, for good cause shown, that repayment would not be in the interests of the United States, any grantee which becomes a for-profit private entity after receiving a grant under section 1304 of the Act, as a non-profit private entity, shall immediately upon this change in status notify the Secretary and repay to the Secretary upon demand the total amount of grant funds received under section 1304. This sum constitutes a debt owed by the grantee to the Federal Government, and the Government may recover it from the grantee or its successors or assignees by setoff or other action as provided by law.

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Part IV

Department of Health, Education, and Welfare

Public Health Service

Health Maintenance Organizations; Employees' Health Benefits Plans

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Part 110

Health Maintenance Organizations; Employees' Health Benefits Plans

AGENCY: Public Health Service, HEW.

ACTION: Final regulation.

SUMMARY: This regulation sets forth the conditions under which an employer must arrange for its employees' contributions for membership in a qualified health maintenance organization (HMO) to be paid through payroll deductions.

EFFECTIVE DATE: This regulation is effective immediately.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Section 1310 of the Public Health Service Act requires that certain employers, States, and political subdivisions of States include the option of membership in qualified HMOs in the health benefits plans offered their employees. Section 1310 was amended by the HMO Amendments of 1978 (Pub. L. 95-559) to require that in certain circumstances these employing entities arrange for their employees' contributions for HMO membership to be paid through payroll deduction.

Subpart H of 42 CFR Part 110 contains the regulations implementing section 1310. A new § 110.809 is added to subpart H to implement this new payroll deduction requirement.

This section provides that each employing entity which (1) provides (a) payroll deductions as a means of paying employees' contributions for health benefits or (b) a health benefits plan to which an employee contribution is not required, and (2) is required by section 1310(a) of the Public Health Service Act to offer its employees the option of membership in a qualified HMO shall, with the consent of an employee who exercises this option, arrange for the employee's contribution, if any, for HMO membership to be paid through payroll deductions.

Because (1) the regulation makes only clarifying changes or additions to the controlling statutory authority (section 1310(c)), and (2) employees and qualified HMOs will benefit from having this new requirement implemented as soon as possible, the Secretary has concluded that notice and public comment on this regulation are unnecessary and contrary to the public interest. For the same reasons, the Secretary also finds good cause for making this regulation effective immediately upon publication.

However, the Secretary notes that in this edition of the **Federal Register** the entire subpart H regulation is proposed to be revised and that public comment is invited on that proposed revision, which includes § 110.809. Thus, although the new § 110.809 is effective immediately as a result of this action, the public may comment on it as contained in the notice of proposed rulemaking. The Secretary will consider comments submitted in a timely manner in finalizing the revised subpart H, including § 110.809.

Accordingly, a new section is adopted at 42 CFR 110.809 as set forth below:

Dated: May 18, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: June 30, 1979.

Hale Champion,

Acting Secretary.

Authority: Sec. 215, 58 Stat. 690 (42 U.S.C. 216); secs. 1301-1318, as amended, 92 Stat. 2131-2141 (42 U.S.C. 300e-300e-17).

Subpart H—Employees' Health Benefits Plans

§ 110.809 Payroll Deductions.

Each employing entity which provides payroll deductions as a means of paying employees' contributions for health benefits or which provides a health benefits plan to which an employee contribution is not required, and which is required by § 110.802(a) to offer its employees the option of membership in a qualified HMO, shall, with the consent of an employee who exercises this option, arrange for the employee's contribution, if any, for HMO membership to be paid through payroll deductions.

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 110]

Health Maintenance Organizations; Employees' Health Benefits Plans

AGENCY: Public Health Service, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice sets forth proposed rules for amending the interim regulations published on April 25, 1978, with respect to the requirement that certain employers, States, and political subdivisions of States include in any health benefits plans offered to their employees the option of membership in qualified health maintenance organizations.

DATE: Comments must be received on or before September 17, 1979.

ADDRESSES: Written comments should be sent to the Director, Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857. The comments will be available for inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: On April 25, 1978, the Secretary published interim regulations in the **Federal Register** (43 FR 17682-87) to implement the provisions of Section 1310 of the Public Health Service Act, as amended (the Act), relating to the obligation of certain employers, States and political subdivisions of States to include in the health benefits plans offered their employees the option of membership in qualified health maintenance organizations (HMOs).

This preamble is divided into two parts: (1) Responses to the commments submitted on the interim regulations published on April 25, 1978; and (2) a discussion of various provisions of the regulations which have been the subject of frequently asked questions, including a summary of the changes in the regulations proposed as a result of the Department's approximately three years of experience in administering the requirements of section 1310.

A. Responses to comments submitted

1. One commenter pointed out that the description of the types of HMOs which must be offered left nuclear the status of an HMO providing services through a medical group. For that reason, the proposed new § 110.805(a) is clarified to indicate that, as required by section 1310(b)(1) of the Act, an HMO providing services through a medical group is to be included in the same category as an HMO providing services through members of its staff.

Another commenter noted that the term "ceases operation" as used in § 110.803(g) was unclear. This provision (proposed to be re-numbered as § 110.806(g)(2)(iii)) requires that eligible employees be offered the opportunity to select among the alternatives in a health benefits plan if the alternative in which they were enrolled ceases operation. The Secretary has concluded that no change in the regulations is necessary, as it would be clear to the employer which organizations had ceased operation.

2. Another commenter suggested that "designee" under § 110.801 be amended specifically to include State boards administering health benefits to State and municipal employees. The Secretary has concluded that no change in the regulations is necessary, as the present definition encompasses this type of situation.

3. Some confusion has arisen regarding two related, but distinct, aspects of the regulation: (1) which employers are subject to the requirements of this subpart; and (2) to whom must the HMO address its request for inclusion in the employees' health benefits plan. As to the first issue, the Secretary calls attention to § 110.802. That section specifies that each employer which (1) was required during any calendar quarter of the previous calendar year to pay its employees the minimum wage specified by Section 6 of the Fair Labor Standards Act, (2) employed an average of 25 or more employees during any calendar quarter of that year, (3) offers its employees a health benefits plan, and (4) has received a request for inclusion in the health benefits plan from a qualified HMO whose service area includes the residences of at least 25 of the employer's employees, is subject to this subpart. If separate, but related entitles, such as two related corporations, each have at least 25 employees residing in the HMO's service area, each entity which meets these four conditions would be separately subject to section 1310. If a corporation which itself meets the four conditions has at least 25 employees who are residents of an HMO's service area, the section 1310 obligation would be imposed on the corporation, even if it has its headquarters elsewhere, and regardless of the number of employment sites it has in the service area. Whether any of the sites itself meets the four conditions is not relevant.

It has been frequently asked whether subsidiaries of a corporation are subject to the requirements of this subpart. Under § 110.802, meeting the four listed conditions, and not the characterization of an entity's form of corporate organization, determines the applicability of these regulations. Therefore, a subsidiary is subject to this subpart only if it meets these conditions. If the subsidiary is an "employer" for minimum wage purposes, apart from the parent corporation, but has not received a separte request for inclusion from an HMO, it is not subject to this subpart even though the parent corporation itself may be subject to this subpart.

As to the second issue, § 110.803(b) provides that the request of an HMO for inclusion in a health benefits plan shall be "directed specifically to the employer's managing official at the employer site being solicited or to the employer's designee." Whether or not the "employer site" being solicited is itself an "employer" subject to the minimum wage requirement is not relevant for purposes of § 110.803(c); assuming that the employer site is one which under § 110.802 has employees to whom the HMO option must be offered, the HMO satisfies its solicitation requirement under § 110.803(c) by addressing its request for inclusion to the managing official at that site.

At the HMO's option, it may satisfy this requirement by addressing this request to the employer's "designee," which term is defined at § 110.801 to mean any person or entity authorized to act on behalf of an employer "to offer the option of membership" in a qualified HMO to eligible employees. Thus, for example, if a corporation's executive vice president is authorized to offer the HMO option to eligible employees at several different sites in the HMO's service area, the HMO may address its request for inclusion to that official instead of to the managing official at each employer site in the service area.

B. Responses to frequently asked questions; changes proposed as a result of the Department's experience with Section 1310

1. A new term, "employing entity" has been added to include both employers

and public entities, for ease of reference to entities subject to section 1310.

2. Many questions have been raised by employers and HMOs regarding whether the HMO may insist that specific provisions not required by statute or regulations be included in its contract for health services. Questions have also been raised about the HMO's method of setting rates for particular employer groups.

As to an HMO's insistence that specific provisions be included in its contract for health services or that the HMO option be offered in a specified manner, Section 1310 of the Act does not require employing entities to agree to contractual provisions or operational requirements which are not required by applicable State and Federal law or regulations. However, as indicated in proposed § 110.806(f)(3), the HMO has the right to specify which supplemental health services are to be included in its basic benefit package. (See section 1301(b)(1) of the Act.)

As to specific matters on which the HMO and the employing entity might negotiate, the Secretary notes that the HMO may not maintain its status as a qualified HMO if it provides services or is organized and operated other than as required by Subpart A of this Part ("Requirements for a Health Maintenance Organization"). Thus, for example, the HMO may not agree to provide less than the basic health services specified at § 110.102, nor may it agree to charge a basic health services payment which is not fixed under a community rating system as specified at § 110.105 (unless, under § 110.105(c), which provides for a postponement of this requirement for organizations which provided comprehensive services on a prepaid basis prior to qualification, it is not subject to the requirement).

Regarding an HMO's method of setting rates for particular employer groups, the Secretary notes that under section 1302(8) of the Act, HMOs may establish a number of differentials in rates of payment under a community rating system, including nominal differentials "to reflect the compositing of the rates of payment in a systematic manner to accommodate group purchasing practices of the various employers." Within the flexibility thus permitted, HMOs should be able to accommodate to a large extent the group purchasing practices of employing entities with which they deal.

3. The Department has been asked frequently whether it is the employing entity's or the HMO's obligation to disclose fully to employees information regarding the HMO's coverage, rates, benefits, grievance procedures, and hours of service. The regulations in Subpart A of this Part (42 CFR 110.108(c)) provide clearly that the HMO has the obligation to disclose this information to prospective members.

4. Other questions have arisen regarding the obligation of an employing entity whose non-represented employees have traditionally received the same benefits, at the same time, as those negotiated for the represented employees. Section 110.804 of the present regulation (proposed to be re-numbered as § 110.807(c)) requires employing entities with multiple contracts or other arrangements for health benefits which have different expiration or renewal dates to offer the HMO option at the time provided under proposed §§ 110.807 (a) and (b) for each contract or other arrangement. This may result in requiring that non-represented employees be offered the HMO option earlier than represented employees, notwithstanding the employing entity's previous practice. As a related matter, the Secretary notes that the rejection of the HMO option by a collective bargaining or other employee representative does not relieve the employing entity of its obligation to offer the HMO option to employees not represented by that employee representative. (See proposed § 110.804(c); § 110.805 of the present regulation.)

5. Another frequently expressed concern is for the situation where the employing entity's contribution to the non-HMO health coverage has increased to the point where the contributions required under the "no less favorable" provisions of these regulations would result in a payment in excess of the HMO's premium. The proposed regulations specify that the HMO may, as authorized by section 1301(b)(1) of the Act, include supplemental health services (as defined in section 1302(2) of the Act) in the basic benefit package offered to its members. If it does so, the employing entity must pay the basic health services payment (which includes an amount for the supplemental benefits), up to the maximum amount of its obligation under the "no less favorable" requirement. (§ 110.808(a)(3).) Alternatively, the employing entity's obligation is to make a financial contribution for the HMO option on a no less favorable basis with respect to the dollar amount, but the employing entity is not obliged to pay more to the HMO than the HMO's premium. (§ 110.808(a)(2).)

6. The Secretary has been informed that some HMOs have sought to impose eligibility requirements for employees' dependents to participate in the HMO option which are different from those of the non-HMO option included in the employing entity's health benefits plan, but which are not prohibited by the Act or the implementing regulations. The Secretary views this as a matter for negotiation between the HMO and the employing entity. The Secretary also notes that where the HMO imposes more restrictive dependent eligibility requirements, it is required to disclose these restrictions (see item #3, above) and the employee may accept or reject membership in the HMO on that basis.

7. A number of questions have been raised as to whether school districts are subject to these regulations. The Secretary notes that school districts fall within the definition of "public entity," as agencies or instrumentalities of States or of their political subdivisions.

8. A new § 110.803 sets out the requirements for an effective request for inclusion by an HMO to an employing entity. This section places time limitations on when the HMO's request must be received by the employer. It also requires that the HMO provide the employing entity additional and more detailed data than presently required, with respect to financial data, identification of the providers of health services associated with the HMO, and premium rates and copayments available from the HMO. The Secretary notes that the additional data to be provided is for informational purposes only, and that the employing entity may not reject the HMO option on the basis of its evaluation of this information.

Section 110.803(d) proposes a new requirement, specifying procedures to be followed once an employing entity has received an HMO's request for inclusion in the health benefits plan. Many employers and HMOs have advised the Department that the failure of the regulations to provide for such procedures has led to conflicts regarding whether and how the HMO option is to be offered. Under this section, employing entities would be required to respond to an HMO in writing no later than 30 days after receipt of the HMO's request for inclusion in the health benefits plan. This response shall state whether or not the employing entity has 25 employees residing in the service area of the HMO, state the expiration and renewal dates of its health benefits contracts and employer-employee and public entity-employee contracts, state the amount of the employing entity contribution (and, where applicable, the employee contribution) for health benefits, and indicate the expiration

dates of any collective bargaining agreements covering those employees. In addition, if the employing entity is a public entity, it or its designee shall furnish the HMO with a description of health benefits, including limitations and exclusions required under State law or regulation for health plans for employees of the public entity.

The proposed regulations require that the HMO provide employing entities the full range of information required for an effective request for inclusion; this may occur before the HMO has been notified if the employing entity has at least 25 employees residing in the HMO's service area, and of the expiration and renewal dates of it contracts or collective bargaining agreements. It may be that this will at times result in a burden on HMOs that might have been avoided if the HMO had this information prior to submitting its request for inclusion in the health benefits plan. However, the Secretary is not aware of any significant problem of this sort which would justify creation of a new administrative procedure in the HMO offering process. Nevertheless, the Secretary is specifically soliciting suggestions from the public on whether such a problem exists, and if so, how to solve it.

Section 110.803(f) will be revised to make clear that if no employees enroll in the HMO during the initial enrollment period, the HMO must initiate a new request in order to be included in subsequent offerings of the health benefits plan.

9. Section 110.805, which combines elements of the existing regulation and adds clarifying paragraphs, describes the HMOs which must be included in the health benefits plan. Proposed § 110.805(c), "Alternate HMOs which may be included," permits employing entities to offer membership in HMOs of the same type which may not have made a timely request for inclusion in an employer's plan, only if these HMOs individually or collectively will serve at least the same service area as that of the HMO that submitted a timely request for inclusion in the employing entity's health benefits plan. (See present § 110.803(d).) These proposed regulations provide that if all employees who live in the service area of the HMO submitting the timely request for inclusion reside in areas served by the alternate HMOs proposed to be offered by the employing entity, these latter HMOs may be offered instead of the HMO making the timely request. However, the latter HMOs may be offered as an alternative only if they are included in the health benefits plan on terms no less favorable to the employees than those on which the HMO submitting the timely request would be included.

10. Proposed § 110.806, describing how the HMO option is to be included in the health benefits plan, combines provisions from various sections of the existing regulations. This section adds a requirement that the employing entity provide for the continuation of health benefits other than basic health services for which the employees would be eligible if selecting a non-HMO option, and which are not offered on a prepaid basis by the HMO. (Proposed § 110.806(d).)

Another proposed requirement is the establishment of an effective date of coverage for the HMO option to begin when the non-HMO coverage expires or is renewed, without lapse, unless a different effective date is agreed to by the employing entity or designee and the HMO. (Proposed § 110.806(g).)

11. Proposed § 110.808 repeats the provisions set forth in § 110.807 of the current regulations. It also: (a) adds captions for easier reference; (b) amplifies the present provision that certain administrative expenses may be taken into account to determine the employer's obligation to make contributions to the HMO (§ 110.808(b)); and (c) clarifies the procedure under which supplementations, refunds, rebates or other redistributions of premiums previously collected by non-HMO alternatives in a health benefits plan may be considered in determining the amount of the employing entity's obligation to make contributions to the HMO (§ 110.808(g)(2)(i)).

12. Section 110.809 contains a new provision requiring employing entities, in certain circumstances, to pay the HMO premium on behalf of their employees electing the HMO option through payroll deduction. This provision is based on an amendment to section 1310(c) of the Act, made by Pub. L. 95–559. In a separate document in this edition of the **Federal Register**, this provision is being adopted in final form. However, for completeness, the Department has set it forth in this proposed regulation as well.

Finally, the Secretary notes that there have been many inquiries as to the implications for HMOs of the "Pregnancy Sex Discrimination, Prohibition" Amendment to Section 701 of Title VII of the Civil Rights Act, enacted as Pub. L. 95–555 on October 31, 1978. This Act regulates unlawful employment practices. Except with respect to the HMO's own employment practices, the impact on HMOs of any prohibition contained in Title VII is necessarily indirect; nothing in the Act specifically regulates HMOs as such. The Equal Employment Opportunity Commission (2401 "E" Street, N.W., Washington, D.C. 20506), and not HEW, is charged with the responsibility for administering the amendment and all questions on this matter should be addressed to the Commission.

The Secretary has been advised, however, that at least one qualified HMO may not have complied with employer requests that it adjust its copayment requirements regarding pregnancy and maternity care so as to enable the employers to comply with their obligation under Title VII, as amended. The Secretary has concluded that should an employer fail to include a qualified HMO in its employees' health benefits plan as required by section 1310, because of that HMO's insistence on retaining copayment requirements which would cause the employer to violate Title VII, the Secretary would exercise his discretion under section 1310(e) of the Act by not assessing civil penalties against the employer. By so exercising his discretion, the Secretary will be indicating his view that HMOs should not use the "dual choice" mandate of section 1310 in a manner which defeats the purposes of another significant Federal statute, Title VII. He notes, however, that any revision in the copayment requirements agreed to by the HMO may require adjustments to the HMO's premiums, which would be passed on to the employer or employee, as determined under Subpart H.

It is therefore proposed to amend Subpart H of Part 110, Title 42, Code of Federal Regulations, as set forth below.

Dated: June 13, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: June 30, 1979.

Hale Champion,

Acting Secretary.

It is proposed to revise Subpart H to read as set forth below:

Subpart H—Employees' Health Benefits Plans

Sec.

110.801 Definitions.
110.802 Applicability.
110.803 Requirements for a Request for Inclusions of the HMO Option in a Health Benefits Plan; Employing Entity Response.
110.804 Offer of HMO Option to Employees.
110.805 HMOs Which Must Be Included in a Health Benefits Plan.
110.806 How the HMO Option is to be Included in the Health Benefits Plan.

Sec.

110.807 When the HMO is to be Offered to Employees.
110.808 Contributions for HMO Option.
110.809 Payroll Deductions.
110.810 Relationsip of Section 1310 of the Public Health Service Act to the National Labor Relations Act, as amended, and the Railway Labor Act, as amended.

Authority: Sec. 215, 58 Stat. 690 (42 U.S.C. 216); secs. 1301–1318, as amended, 92 Stat. 2131–2141 (42 U.S.C. 300e–300e–17).

Subpart H—Employees' Health Benefits Plans

§ 110.801 Definitions.

In addition to the terms defined in § 110.101 and § 110.602 of this Part, as used in this subpart:

"Bargaining representative" means a representative designated or selected for the purposes of collective bargaining under the National Labor Relations Act, as amended, (29 U.S.C. 151 *et seq.*) or under the Railway Labor Act, as amended, (45 U.S.C. 151 *et seq.*) or under a public entity collective bargaining agreement, or under the laws of any State or political subdivision thereof, or other employee representative designated or selected under any law.

"Carrier" means a voluntary association, corporation, partnership, or other organization which is engaged in providing, paying for, or reimbursing all or part of the cost of health benefits under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier.

"Collective bargaining agreement" means an agreement entered into between an employing entity and the bargaining representative of its employees, and includes agreements entered into on behalf of groups of employing entities with the bargaining reporesentative of their employees in accordance with the provisions of the National Labor Relations Act, as amended (29 U.S.C. 151 *et seq.*), or the Railway Labor Act, as amended (45 U.S.C. 151 *et seq.*), or the laws of any State or political subdivision thereof.

"Designee" means any person or entity authorized to act on behalf of an employing entity or a group of employing entities to offer the option of membership in a qualified health maintenance organization to their eligible employees.

"Eligible employee" means an employee who is eligible to participate in a health benefits plan.

"Employee" means any individual employed by an employer or public entity on a full- or part-time basis.

"Employer" shall have the meaning given that term in Section 3(d) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 203(d), 203(x)), except that the term "employer" does not include (1) the Government of the United States, the government of the District of Columbia or any territory or possession of the United States, a State or any political subdivision thereof, or any agency or instrumentality (including the United States Postal Service and Postal Rate Commission) of any of the foregoing; or (2) a church, convention or association of churches, or any organization operated, supervised, or controlled by a church, convention, or association of churches which organization (i) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1954, and (ii) does not discriminate (A) in the employment, compensation, promotion, or termination of employment of any personnel, or (B) in the extension of staff or other privileges to any physician or other health personnel, because such persons seek to obtain or obtained health care, or participate in providing health care, through an HMO.

"Employing entity" means an employer or public entity.

"Employing entity-employee contract" means a legally enforceable agreement (other than a collective bargaining agreement) between an employing entity and its employees for the provision of, or payment for, health benefits for its employees, or for its employees and their eligible dependents.

"Group enrollment period" menas the period of at least 10 working days each calendar year during which each eligible employee is given the opportunity to select among the alternatives included in a health benefits plan.

"Health benefits" means health benefits and services.

"Health benefits contract" means a contract or other agreement between an employing entity or a designee and a carrier for the provision of, or payment for, health benefits to eligible employees or to eligible employees and their eligible dependents.

"Health benefits plan" means any arrangement for the provision of, or payment for, any of the basic and supplemental health benefits described in §§ 110.102 and 110.103 of this Part offered to eligible employees, or to eligible employees and their eligible dependents, by or on behalf of an employing entity.

"Public entity" means a State as defined by section 2(f) of the Public Health Service Act (42 U.S.C. 201(f)), a political subdivision of a State, or any agency or instrumentality of the foregoing. "Political subdivision" includes counties, parishes, townships, cities, municipalities, towns, villages, and incorporated villages.

"To offer a health benefits plan" means to make participation in a health benfits plan available to eligible employees, or to eligible employees and their eligible dependents, and to make a financial contribution to the plan whether the financial contribution by the employing entity on behalf of these employees is made directly or indirectly (e.g. through payments on any basis into a health and welfare trust fund).

§ 110.802 Applicability.

The regulations of this subpart apply in each calendar year to:

(a) Each employer which was required during any calendar quarter of the previous calendar year to pay its employees the minimum wage specified by section 6 of the Fair Labor Standards Act of 1938 (or would have been required to pay its employees the minimum wage but for Section 13(a) of that Act) and which during any calendar quarter of the previous calendar year employed an average of not less than 25 employees; and

(b) Each public entity, as a condition of the payment to the State of funds under Sections 314(d), 317, 318, 1002, 1525, or 1613 of the Public Health Service Act, which during any calendar quarter of the previous calendar year employed an average of not less than 25 employees, if the employer or public entity:

(1) Offers, or if there is offered on behalf of the employer or public entity, in the calendar year beginning after any calendar quarter of the previous calendar year in which the employer or public entity employed an average of not less than 25 employees, a health benefits plan to its eligible employees; and

(2) Has received a written request for inclusion in the employer's or public entity's health benefits plan (which request meets the requirements of § 110.803) from one or more qualified HMOs which provide basic health services in an HMO service area in which at least 25 employees of the employer or the public entity, respectively, reside.

§ 110.803 Requirements for a request for inclusion of the HMO option in a health benefits plan; employing entity response

(a) *Time limitations.* (1) Unless otherwise agreed to by the HMO and the employing entity or designee, an HMO's request for inclusion in an employing entity's health benefits plan must be received by the employing entity or designee no more than 365 days and not less than 180 days before the expiration or renewal date of a health benefits contract or employing entity-employee contract, and no more than 365 days and not less than 180 days before the expiration date of a collective bargaining agreement, or in the case of a public entity, such longer period as may be prescribed by State law.

(2) For the purposes of this paragraph:

(i) A collective bargaining agreement that is automatically renewable or without fixed term shall be treated as having an expiration or renewal date on the earliest anniversary date of the collective bargaining agreement.

(ii) A collective bargaining agreement that is for a fixed term in excess of one year and has provisions for periodically changing wages, hours, or conditions of employment shall be treated as having an expiration or renewal date at the time provided by the agreement for discussion of these changes.

(b) *To whom the written request is to be directed.* The request for inclusion shall be in writing and (1) in the case of an employer, be directed specifically to the employer's managing official at the employer site being solicited or to the employer's designee; and (2) in the case of a public entity, be directed to the Chief Executive Officer of the public entity, or to the public entity's designee.

(c) *Information which the request must include.* The request shall:

(1) Provide evidence that the Secretary has determined that the HMO is a qualified HMO in accordance with section 1310(d) of the Act and Subpart F of this Part;

(2) Describe the HMO's service area or proposed service area and give the dates basic and supplemental health services will be provided in the area or areas;

(3) Indicate whether the services of health professionals which are provided as basic health services are provided through health professionals who are (i) members of the staff of the organization, or (ii) members of a medical group(s), or (iii) members of an individual practice association(s), (iv) health professionals who have contracted with the HMO for the provision of these services or (v) any combination of the above;

(4) If the HMO provides health services through an individual practice association(s), provide a listing of member physicians by name, specialty, address, days and hours of office operation and whether they are accepting new patients from the HMO membership. This listing shall be current within 90 days of the date of the request for inclusion;

(5) If the HMO provides health services other than through an individual practice association, provide for each ambulatory care facility, the facility's address, days and hours of operation, a statement whether it is accepting new patients from the HMO membership, and the names and specialties of the facility's providers of basic and supplemental health services. This information shall be current within 90 days of the date of the request for inclusion;

(6) List the hospitals where HMO members will be provided basic and supplemental health services;

(7) Identify (i) the nature of the HMO entity, i.e., for profit or non-profit, public or private, sole proprietorship, partnership, or stock or non-stock corporation, (ii) the members of the HMO's policymaking body, and (iii) the principal managing officer of the HMO;

(8) Provide a statement of the HMO's capacity to enroll new members and the likelihood of any future limitations on enrollment;

(9) Provide a report of the financial condition of the HMO which shall consist of the most current financial statements in addition to the most recently audited annual set of financial statements;

(10) Provide proposed implementing agreements between the HMO and the employer, public entity, or designee for the HMO offering;

(11) Include sample copies of solicition brochures and membership literature which will be used in the offer of the HMO alternative to employees;

(12) State the proposed rates of periodic payments for basic and supplemental health services to be charged on the effective date of the HMO's coverage of the employees of the employing entity to whom the request for inclusion is directed. If the use of different copayment levels causes different rates of periodic payments, the copayment levels and the corresponding rates of periodic payments must be stated.

(d) *Employing entity response.* An employing entity or designee shall respond in writing to an HMO's request for inclusion no later than 30 days after the receipt of the request and shall state whether the employing entity has 25 or more employees who reside within the service area of the HMO, the expiration or renewal dates of its health benefits contracts, employer-employee contracts, and public entity-employee contracts covering these employees, the amount of the employing entity's contribution (and, where applicable, the employee's contribution) for health benefits, and the expiration dates of any collective bargaining agreements covering these employees. In addition, in this response, a public entity or its designee shall furnish the HMO with a description of health benefits, including limitations and exclusions, required under State law or regulation for health benefits plans for employees of the public entity.

(e) *Effect of inadequate request.* If the request for inclusion does not meet the requirements of paragraphs (a)–(c) of this section, the employing entity is not required to include the HMO alternative in its employees' health benefits plan under § 110.805 until the HMO makes its request in accordance with those paragraphs. In such a case, the employing entity or its designee shall, within 30 days after receipt of the request, notify the HMO in writing of the basis for its conclusion that the request does not meet the requirements of paragraphs (a)–(c) of this section.

(f) *New request for inclusion.* If an employer includes HMO alternative in a health benefits plan in accordance with a request meeting the requirements of paragraphs (a)–(c) of this section, but no employees enroll in the HMO during the initial enrollment period, the HMO seeking inclusion in the health benefits plan for subsequent enrollment periods must submit a new request for inclusion in accordance with this section.

(g) *Discretionary offering of HMO alternative.* Nothing in this subpart prevents the employing entity or designee from offering the HMO alternative at any time by mutual agreement with the HMO.

§ 110.804 Offer of HMO option to employees.

(a) *Inclusion of HMO option.* An employing entity subject to § 110.802 shall, at the time a health benefits plan is offered to its eligible employees, include in the plan the option of membership in qualified HMOs in accordance with this section.

(b) *Employees to whom the HMO option must be offered.* Each employing entity subject to this subpart shall offer the option of membership in a qualified HMO to each eligible employee, or to each eligible employee and his or her eligible dependents, who reside within

the service area of the qualified HMO being offered.

(c) *Manner of offering the HMO option.*

(1) For the employees of an employing entity subject to this subpart who are represented by a bargaining representative, the offer of membership in a qualified HMO (i) shall first be made to the bargaining representative, and (ii) if the offer is accepted by the representative, shall then be made to each represented employee.

(2) For those employees not represented by a bargaining representative, the offer shall be made directly to those employees in accordance with this subpart.

§ 110.805 HMOs which must be included in a health benefits plan.

(a) *HMOs providing basic health services through varying arrangements with health professionals.* If more than one qualified HMO engaged in the provision of basic health services in an area in which eligible employees of an employing entity subject to this subpart reside has requested inclusion in the employer's or public entity's health benefits plan as provided by § 110.802(a)(2)(ii), and if:

(1) One or more of these organizations provides basic health services through physicians or other health professionals who are members of the staff of the organization or a medical group (or groups), and

(2) One or more of these organizations provides basic health services through (i) an individual practice association (or associations), or (ii) a combination of such an association (or associations), medical group (or groups), staff, and individual physicians and other health professionals under contract with the organization,

then, of the qualified HMOs included under this section in a health benefits plan of an employing entity subject to this subpart, at least one shall be an organization which provides basic health services as described in subparagraph (1) of this paragraph and at least one shall be an organization which provides basic health services as described in subparagraph (2) of this paragraph. For purposes of this paragraph, individual physicians and other health professionals who have contracted with the HMO do not include health professionals who are members of the HMO's staff, of medical groups, or of entities which would be medical groups but for the requirements of subparagraph (3)(i) of the definition of medical group in § 110.101.[1]

[1] These requirements are that the members of the medical group "as their principal professional activity (over 50 percent individually) engage in the coordinated practice of their profession and as a group responsibility have substantial responsibility (over 35 percent in the aggregate of their professional activity) for the delivery of health services to members of an HMO."

(b) *Additional HMOs which must be included.* An employing entity subject to this subpart shall offer the option of membership in additional qualified HMOs to its eligible employees, described in subparagraphs (1) and (2) of this paragraph, if the additional qualified HMOs demonstrate that their service areas include the place of residence of at least 25 employees of the employing entity:

(1) Who do not reside in the service area of qualified HMOs already included in the employing entity's health benefits plan; or

(2) To whom membership in qualified HMOs already included in the health benefits plan is not available because these HMOs have closed their enrollment of additional eligible employees of the employing entity.

(c) *Alternate HMOs which may be included.* An employing entity subject to this subpart is not required to include in the health benefits plan offered to eligible employees the option of membership in the specific qualified HMO which initiated the request for inclusion in the health benefits plan if (1) the employing entity or designee includes in the health benefits plan the option of membership in one or more other qualified HMOs that may not have made a request within the time limit of § 110.803(a) but are willing to be included, (2) these latter HMOs are of the same type (i.e., as described in paragraph (a) (1) or (2) of this section) as the HMO which submitted the timely request, (3) all of the employees of the employing entity residing in the service area of the HMO submitting the timely request reside in areas served by these latter HMOs, and (4) these latter HMOs are included in the health benefits plan on terms no less favorable to the employing entity's employees (with regard to the employing entity's monetary contribution) than those on which the HMO submitting the timely request would have been included.

§ 110.806 How the HMO option is to be included in the health benefits plan.

(a) *HMO access to employees.* The employing entity shall provide each qualified HMO which is included in its health benefits plan with fair and reasonable access, not less than 30 days prior to and during the group enrollment period, to employees referred to in § 110.804(b) for purposes of presenting and exlaining its program in accordance with § 110.108(c) of this Part. This access shall include, at a minimum, the opportunity for the distribution of educational literature, brochures, announcements of meetings, and other relevant printed materials meeting the requirement of § 110.108(c) to each employee referred to in § 110.804(b). In no event shall the employing entity provide qualified HMOs access to eligible employees which is more restrictive or less favorable than the access it provides other offerors of alternatives included in the health benefits plan, whether or not these offerors elect to avail themselves of that access.

(b) *Review of HMO offering materials.* The HMO shall give the employing entity or designee the opporutunity to review, revise, and approve HMO educational offering materials before distribution. Revisions shall be limited to correcting factual errors and misleading or ambiguous statements, unless otherwise agreed to by the HMO and the employer or public entity or disignee, or as may be required by law. The employing entity or designee shall complete promply any of these revisions in the offering material so as not to delay or otherwise interfere with the group enrollment period.

(c) *Group enrollment period; prohibition of waiting periods, exclusions, and limitations.* An employing entity or designee including the option of membership in a qualified HMO pursuant to this subpart as part of the health benefits plan offered to its eligible employees shall provide for a group enrollement period, prior to the effective date of the HMO coverage estalished under paragraph (g) of this section, without application of waiting periods or exclusions or limitations based on health status as a condition of enrollment in the HMO or transfer to non-HMO coverage from an HMO. Nothing in this subpart precludes the uniform application of coordination of coverage arrangements between the HMOs and the other carrires which are included in the health benefits plan.

(d) *Continuation of other health benefits.* The employing entity shall assure that employees selecting the option of HMO membership will not, because of this selection, lose their eligibility for other health benefits, such as dental or prescription drug coverage, for which they were previously eligible or would be eligible if selecting a non-HMO option and which are not included in the services provided by the HMO on a prepaid basis. However, no employing entity shall be required to pay more for health benefits as a result of the

application of this paragraph than would otherwise be required by any prevailing collective bargaining agreement or other legally enforceable contract for the provision of health benefits between the employing entity and its employees.

(e) *Affirmative written selections.* (1) During the group enrollment period in which the alternative of membership in any particular qualified HMO is offered to an eligible group of employees for the first time, the employing entity or designess shall present the health benefits plan alternatives to each eligible employee residing in the service area of the HMO with the requirement that an affirmative written selection be made among the different alternatives included in the health benefits plan. In subsequent group enrollment periods, it shall make available a selection among the alterntives; however, a written selection is required only when the eligible employee elects to change from one alternative to another.

(2) In addition to the group enrollment period, the employing entity or designee shall make available the opportunity to select among different existing alternatives within a health benefits plan to eligible employees who: (i) are new employees, (ii) have been transferred or have changed their place of residence, resulting in eligibility for membership in a qualified HMO for which they were not previously eligible by place of residence, or resulting in loss of membership in a qualified HMO in which they were previously enrolled, or (iii) are covered by any alternative which ceases operation. At the time these employees are eligible to participate in the health benefits plan, the employing entity or designee shall make available the opportunity without waiting periods or exclusions or limitations based on health status as a condition of enrollment in an HMO or tranfer to non-HMO coverage from an HMO, and shall require these employees to make an affirmative written selection among the different alternative included in the health benefits plan.

(f) *Determination of copayment levels and supplemental health services.* The selection of a copayment level and of supplemental health services to be contracted for is to be made as follows:

(1) For those employees represented by a collective bargaining representative, the selection of copayment levels and supplemental health services is subject to the collective bargaining process.

(2) For those employees not represented by a bargaining representative, the selection of copayment levels and supplemental health services to be offered to eligible employees shall be made through the same decision-making process used by the employing entity with respect to the non-HMO alternatives in its health benefits plan.

(3) For all employees, the selection of supplemental health services is subject to the right of the HMO to determine which supplemental health services are included as part of its basic benefit package.

(g) *Effective date of coverage.* Unless otherwise agreed to by the employing entity, or designee and the HMO, the effective date of coverage by the HMO for employees selecting the HMO option shall begin on the day the non-HMO coverage expires or is renewed without lapse.

§ 110.807 When the HMO is to be offered to employees.

The employing entity or designee shall offer eligible employees the option of membership in a qualified HMO at the earliest date permitted under the terms of existing collective bargaining agreements, employer-employee or public entity-employee contracts, or contracts for health benefits. Should the HMO's request for inclusion in a health benefits plan be received at a time when these existing contracts or agreements do not provide for including a qualified HMO in the health benefits plan, the inclusion of the HMO in the health benefits plan shall occur at the time that new agreements or contracts are offered or negotiated and shall be consistent with the following paragraphs:

(a) Upless mutually agreed otherwise, if a collective bargaining agreement is in force at the time the request for inclusion in the health benefits plan is made by the HMO to the employing entity or designee, the request shall be raised in the collective bargaining process (1) when a new agreement is negotiated, (2) if the agreement is for a fixed term in excess of one year and contains provisions for periodically changing the wages, hours, or conditions of employment, at the times provided by the agreement for discussion of these changes, or (3) in accordance with a specific process to review HMO offers.

(b) Unless mutually agreed otherwise, for those employees not covered by a collective bargaining agreement, the employing entity or designee shall include the HMO option in any health benefits plan offered to eligible employees when the existing employer-employee contract or public entity-employee contract is renewed or when a new health benefits contract or other arrangement is negotiated. If an employer-employee or public entity-employee contract or a health benefits contract has no fixed term or has a term in excess of one year, the contract shall be treated as renewable on its earliest anniversary date. If the employing entity or designee is self-insured, the budget year shall be treated as the term of the existing contract.

(c) Unless mutually agreed otherwise, for employing entities with multiple contracts or other arrangements included as part of the health benefits plan which may have different expiration or renewal dates, the employing entity shall include the HMO option, in accordance with paragraphs (a) and (b) of this section, for each contract or arrangement at the time the contract or arrangement is renewed or reissued or the benefits provided under the contract or arrangement are offered to employees.

§ 110.808 Contributions for HMO option.

(a) *General principles.* (1) The employing entity or designee shall include the HMO option in the health benefits plan or terms no less favorable, with respect to the employing entity's monetary contribution or designee's cost for health benefits calculated in dollars and cents, than those on which the other alternatives in the health benefits plan are included. However, the employing entity or designee is not required to pay more for health benefits as a result of offering the option of membership in a qualified HMO than it would otherwise be required to pay for health benefits by a collective bargaining agreement or other employer-employee contract or public entity-employer contract in effect at the time the HMO is included in the health benefits plan.

(2) The amount of the employing entity's or designee's contribution per employee for the HMO option shall be equal, in terms of dollars, to the largest amount of the contribution per employee paid to any other option which is available to all eligible employees included in the health benefits plan, but shall not be required to exceed the amount of the HMO premium.

(3) If the amount of the HMO's premium is less than the employing entity or designee's contribution to the HMO alternative, the HMO may add supplemental health services to its basic benefit package offered to the employees of the employing entity. If the HMO does so, the employing entity or its designee shall pay the HMO's premium (including an amount for these supplemental services), subject to the limitation in subparagraph (2) of this paragraph.

(4) The employing entity or designee shall increase the amount of its contribution for the HMO option at the time the contribution to other alternatives in the health benefits plan increases, without regard to whether this contribution for the HMO option is fixed by a contract between the employing entity or designee and the HMO. However, the amount of an employing entity's or designee's contribution for the HMO option shall not be required to exceed the amount of the HMO premium.

(b) *Administrative expenses.* The employing entity or designee may not consider administrative expenses incurred in connection with offering any alternative in the health benefits plan in determining the amount of its contribution to the HMO. However, if the employing entity or designee has special requirements for other than standard solicatation brochures and membership literature, it shall determine and distribute any administrative costs attributable to these requirements, in the case of the offering of the HMO option, in a manner consistent with its method of determining and distributing these costs for the non-HMO alternatives.

(c) *Exclusion for contribution for certain benefits.* In determining the amount of the employing entity's contribution or designee's cost for the HMO option, the employing entity or designee may exclude those portions of the contribution allocable to benefits (e.g., life insurance or insurance for supplemental health benefits) for which eligible employees or eligible employees and their eligible dependents will continue to be covered notwithstanding selection of membership in an HMO, and which are not offered on a prepaid basis by the HMO to the employing entity's employees.

(d) *Contributions determined by collective bargaining agreements or by other contracts or by law.* Where the specific amount of the employing entity's contribution for health benefits is fixed by a collective bargaining agreement, by an employer-employee or public entity-employee contract, or by law, the amount so determined shall constitute the employing entity's obligation for contribution toward the HMO premiums on behalf of eligible employees or eligible employees and their eligible dependents.

(e) *Allocation of portion of a countribution determined by a collective bargaining agreement.* Where the employing entity's contribution for health benefits is determined by a collective bargaining agreement, but the amount so fixed includes contribution for benefits in addition to health benefits, the employing entity shall determine, or shall instruct its designee to determine, the portion of its contribution applicable to health benefits in accordance with paragraph (g) of this section.

(f) *Contributions not determined by collective bargaining agreements or by other contracts or by law.* For employees not covered by a collective bargaining agreement, employer-employee or public entity-employee contract, or by a law specifying the contribution for health benefits, the employing entity's contribution to the HMO on behalf of eligible employees or eligible employees and their eligible dependents shall be determined in accordance with paragraphs (a), (b), (c), and (g) of this section on the basis of the total cost of providing the health benefits offered to the employees for the most recent period for which experience is available.

(g) *Calculation of cost.* An employing entity's contribution or designee's cost for alternatives other than the qualified HMO, included in the health benefits plan shall be determined in the following manner, unless otherwise agreed to by the HMO and the employing public entity or designee:

(1) *Prospective calculation.* If the employing entity's contribution or designee's cost for non-HMO alternative health benefits is determined solely on the basis of a fixed prospective amount (not subject to retrospective adjustment) then the amount of the prospective payment made by or on behalf of the employing entity to the non-HMO alternative for the provision of health benefits to eligible employees or to eligible employees and their eligible dependents shall constitute the employing entity's contribution toward the HMO premium.

(2) *Retrospective calculation.* If the employing entity's contribution or designee's cost for non-HMO alternative health benefits is determined by a contract with a carrier on any form of retrospective experience rating basis, including any determination of current premiums which reflects, takes into account, or is otherwise based on any form of supplementation or any rebate, refund or other redistribution of premiums collected in any previous year for which experience is available, any billing contract arrangement, any plan of self-insurance, any direct service plan provided by the employing entity or designee, or any other form of health benefits plan wherein the actual cost to the employing entity or designee is determined retrospectively, an estimated cost shall be used to determine the obligation for contribution toward the HMO premium. The employing entity or designee shall determine this estimated cost based on consideration of the following factors: (i) the employing entity's or designee's cost experience for the non-HMO alternatives with respect to the most recent benefit period for which the experience is available at the time when the employing entity's prospective contribution or designee's obligation to the HMO is to be determined; (ii) a reasonable allowance for inflation based on historical cost trends and the anticipated future costs increases; (iii) where applicable and consistently applied, cost differences experienced in the provision of health benefits for separate regional or local areas of employment; (iv) anticipated changes in the composition and experience of the covered population actually being served by the non-HMO alternatives attributable to the shift of enrollment to the HMO; (v) any changes in health benefits to be provided by the non-HMO alternatives during the period for which the estimated contribution is to be determined; (vi) any other anticipated material change in the experience rating basis under any health benefits contract for the benefits period.

(h) *Retention of data.* An employing entity or designee shall retain the data used to compute its level of contribution to the alternatives included in the health benefits plan for three years. The Secretary may review this data either on his own initiative or in response to a request to the Secretary from an HMO or an employee of the employing entity which sets forth reasonable grounds supporting the request to determine whether the level of contributions determined by the employing public entity or designee complies with this subpart.

§ 110.809 Payroll deductions.

Each employing entity which provides payroll deductions as a means of paying employees' contributions for health benefits or which provides a health benefits plan to which an employee contribution is not required, and which is required by § 110.802(a) to offer its employees the option of membership in a qualified HMO, shall, with the consent of an employee who exercises this option, arrange for the employee's contribution for HMO membership to be paid through payroll deductions.

§ 110.810 Relationship of section 1310 of the Public Health Service Act to the National Labor Relations Act, as amended, and the Railway Labor Act, as amended.

The obligation of an employing entity subject to this subpart to include the option of membership in a qualified HMO in any health benefits plan offered to its eligible employees shall be carried out consistently with the obligations imposed on that employing entity under the National Labor Relations Act, the Railway Labor Act, and other laws of similar effect.

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Part V

Department of Energy

Urban Wastes Demonstration Facilities Guarantee Program; Proposed Rulemaking and Availability of Environmental Assessment and Negative Declaration

DEPARTMENT OF ENERGY

[10 CFR Part 485]

[Docket No. CAS-RM-79-108]

Urban Wastes Demonstration Facilities Guarantee Program

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) hereby gives notice of a proposal to establish regulations providing for the implementation of the Urban Wastes Demonstration Facilities Guarantee Program. Section 207(b) of the Department of Energy Act of 1978—Civilian Applications (Public Law 95–238), which adds Section 19(y) to the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93–577), establishes the authority of the Secretary of Energy to implement a loan guarantee program to assist in the financing of facilities demonstrating the conversion of urban (municipal) wastes into synthetic fuels, and the generation of desirable forms of energy including synthetic fuels, from urban wastes, in an environmentally acceptable manner. These regulations establish the procedures and requirements for filing applications for loan guarantees to support urban waste facilities, and specify the procedures for evaluating and selecting applicants to receive loan guarantee support. These regulations also detail necessary terms and conditions of guarantee agreements.

DATES: Written comments must be received by September 17, 1979, 4:30 p.m., e.d.t. Public hearings will be held in 3 cities beginning at 9:30 a.m., local time, on the dates and locations specified below:

City	Hearing dates	Request to testify to be received by	Submit request to testify to	Location
Washington, D.C.	Aug. 21, 1979	Aug. 10, 1979.	Margaret Sibley, U.S. Dept. of Energy, MS-2221C, 20 Mass. Ave., NW., Washington, D.C. 20585.	Federal Bldg., Rm 3000A, 12th & Penn., Washington, D.C. 20585.
New Orleans, La.	Aug. 9, 1979..	July 30, 1979.	Grace Morrison, U.S. Dept. of Energy, Region 6, P.O. Box 35228, 2626 W. Mockingbird Ln., Dallas, TX 75235.	Marlborough, Suite A, Hilton Hotel, #2 Poydras Street, New Orleans, LA 70140.
San Francisco, Calif.	Aug. 14, 1979	Aug. 3, 1979..	Robert Laffel, U.S. Dept. of Energy, 111 Pine Street, San Francisco, CA 94111.	Crystal Room, Fairmont Hotel and Tower, Atop Nob Hill, San Francisco, CA 94106.

ADDRESSES: Written comments should be addressed to Margaret W. Sibley, Office of Conservation and Solar Applications, Department of Energy, Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D. C. 20585.

FOR FURTHER INFORMATION CONTACT:

Donald K. Walter, Program Director, Room 2252C, U.S. Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585, (202) 376–1964.

Leonard Rawicz, General Counsel, Room 6–F–085, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20461, (202) 252–6967.

Verlette Gatling, Freedom of Information Office, Room G–A–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20461, (202) 252–5969.

Margaret W. Sibley, Room 2221C, U.S. Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585, (202) 376–1651.

SUPPLEMENTARY INFORMATION:

I. Background
II. Proposed Regulation
A. Legislative Requirements
B. Programmatic Requirements
III. Program Information
IV. Comment Procedures
A. Written Comments
B. Public Hearings

I. Background

Title II, Section 207(b) of the Department of Energy Act of 1978—Civilian Applications (Pub. L. 95–238) amends the Federal Nonnuclear Energy Research and Development Act of 1974 (Pub. L. 93577) by adding Section 19, which establishes the authority of the Secretary of Energy to implement a demonstration program to produce alternative fuels from coal, oil shale, biomass, municipal and industrial wastes, and other domestic resources, and to provide financial assistance in the form of loan guarantees for the financing of demonstration facilities. Several regulations are being prepared to implement Section 19.

One such regulation concerns loan guarantees and other financial assistance for the alternative fuels demonstration program (AFDP) authorized by Section 19(b), and related subsections of Section 19. The regulation proposed herein implements the authority under Section 19(y) to issue loan guarantees for municipal (urban) waste demonstration facilities for producing desirable forms of energy, including synthetic fuels. A third regulation, or modification to this regulation, is planned for the future to cover loan guarantees for industrial waste demonstration facilities under Section 19(y). DOE has decided to consider the industrial wastes program separately, since the constituencies for the guarantees for urban and industrial wastes are different and the programs are managed in separate major program element areas within DOE.

Title IV, Section 401 of Pub. L. 95–238 further amends Pub. L. 93–577 by adding Section 20, which establishes other financial assistance programs for demonstrating municipal waste processing. The regulations here proposed do not include the provisions of Title IV. Separate regulations, as appropriate, will be published for that Title.

II. Proposed Regulation

A. Legislative Requirements

The purpose of these regulations is to set forth policies and procedures for obtaining Federal guarantees to support financial debt instruments issued for financing the construction of demonstration facilities which convert urban wastes into synthetic fuels and generate desirable forms of energy from urban wastes. The facilities are to be operated in an environmentally acceptable manner, and should gather information about the technological, economic, environmental, and social benefits, costs, and impacts of these facilities. The full faith and credit of the United States is pledged to the payment of all guarantees issued under these regulations with respect to principal and interest.

The Act requires that the applicant be a citizen of the United States or that a corporation or similar entity be a national of the United States within the law, that the project be performed in the United States, and that the project conform to all applicable Federal, State, and local laws. In addition, all projects supported by a guarantee must provide for the purchase of Flood Hazard Insurance when appropriate, conformance to the Davis-Bacon Act, adherence to nondiscrimination and equal employment opportunities,

location requirements, and audit and record requirements.

The Act specifies certain requirements regarding disclosure of information, patents and proprietary rights, and small business participation.

The Secretary may not issue a guarantee for a project if the Governor of the State in which the project is located does not approve, unless the Secretary determines that there is an overriding national interest and the President concurs. The regulations outline the procedures and recourse in such an event.

Subsection 19(y)(3)(A) of the Act requires that any project involving solid waste conversion, and receiving support through this program be consistent with any applicable suggested guidelines published pursuant to the Resource Conservation and Recovery Act (42 U.S.C. 6903), and any applicable State or regional solid waste management plan. The Environmental Protection Agency (EPA) is to certify this compliance.

The Act restricts the Secretary from finalizing any guarantee or commitment to guarantee for a demonstration facility costing in excess of $50,000,000 unless the guarantee or commitment is authorized by legislation, or both Houses of Congress pass a resolution approving the guarantee or commitment. For demonstration facilities costing less than $50,000,000, the guarantee or commitment will be submitted to the House Committee on Science and Technology and to the Senate Committee on Energy and Natural Resources, and may not be finalized by DOE prior to the expiration of 90 calendar days from receipt by these committees.

The Act specifically requires that interest paid on a guaranteed obligation be taxable; that is, included in gross income. However, that Act also provides that if the obligation would normally be tax-exempt, such as a municipal security, then an interest differential will be paid to the issuer. This differential will be set by the Secretary of the Treasury based upon interest rates currently being paid by the issuer, or rates on obligations with similar terms and conditions which are tax-exempt.

The Act requires that guarantee fees not to exceed 1% be imposed on the guaranteed portion of the instrument. This charge will be used for the purposes of defraying possible Federal loss, and administrative costs associated with the program.

As provided for in Section 19(n) of the Act, a separate fund is established by the Treasury of the United States for the purpose of carrying out this regulation. Appropriations provided by the Congress, guarantee fees and notes and other obligations associated with the urban waste project will be deposited into the fund, and all required disbursements in conjuction with a guarantee will be made from the fund.

The Secretary is authorized to incur an outstanding indebtedness of up to $300,000,000. This ceiling amount is meant to cover both the urban waste and industrial waste guarantee programs. However, Section 19(u) of the Act requires that the exercise of the authority to award loan guarantees must await approval in appropriations law. No such approval has yet been enacted.

Section 19(u)(4) defines biomass as including animal and timber waste, municipal and industrial waste, sewage, sludge, and oceanic and terrestrial crops. The alternative fuels demonstration program being implemented under Section 19(b) by another regulation could include urban waste demonstration facilities. However, Section 19(y) provides a specific program for loan guarantees for urban waste demonstration facilities and exempts this program from certain requirements of Section 19. The overlap in authorization for loan guarantees for urban waste demonstration facilities contained in Section 19 has been eliminated by excluding the grants of loan guarantees for such urban waste facilities from the alternative fuels demonstration program. Comments on the Department's determination, and the technique used to eliminate this overlap of authority, are solicited.

B. Programmatic Requirements

The objectives of this program are to provide adequate Federal support to foster a demonstration program for producing desirable forms of energy from urban wastes; to authorize assistance, through guarantees, for costs for the demonstration facilities; to gather pertinent technical information regarding these facilities; and to encourage the flow of credit to assist in the continued development of urban wastes facilities.

Program management responsibility is vested in the Chief, Urban Waste and Municipal Systems Branch, Office of Buildings and Community Systems, U.S. Department of Energy, Washington, D.C. 20585.

The Act requires competitive evaluation to the extent feasible. DOE had a number of options to choose from in establishing such competition. The proposed solicitation method, as outlined below, was chosen based upon: the unique requirements for competition within a technology area; the program office objectives of initiating the best demonstration project with the highest probability of success in the shortest time, while recognizing the constraints brought about by a necessity to expedite projects; the limited guarantee authority available; the expected diversity in projects to be proposed; the varying stages of project development at present; and the time necessary to evaluate, select, and negotiate the guarantees.

Under the proposed solicitation procedure, DOE intends to issue periodic solicitations to obtain initial applications, probably on an annual basis, with 3 to 6 month response periods for the submission of applications. The information to be contained in the solicitation is outlined in the regulations, as are the evaluation and selection processes. The solicitation would detail the specific type of demonstration projects sought and the information required to be submitted in the application. An initial application would be required in response to the solicitation, which would contain sufficient information for the evaluation of the proposals. In addition, the initial application would be the basis for the notification of the Governor and others in the affected area. Applicants whose projects are selected for a potential loan guarantee will be notified, and the applications will be processed through the Federal Trade Commission (FTC) and Attorney General's office for comments and recommendations on the competitive aspects of the project. Concurrent with review by the FTC and the Attorney General, final application will be prepared. Review of the final application will be coordinated with and approved by the Secretary of Treasury, and a full report will be made to Congress. Public comments are requested on the proposed selection and evaluation criteria and procedures.

Activities are ongoing in the area of urban waste to energy technology. Projects that might require guarantee support are at varying stages of development. Therefore, it is contemplated that the initial applications will be for projects of diverse sizes, types of technologies, and stages of development. These will compete against each other. In the future, solicitations will be structured to focus upon more specific technologies, sizes, and institutional arrangements of interest. The intent is to select projects for support that are at least at the conceptual design stage of development so that the evaluation, selection, and

approval process for the guarantee parallels the progress of the project to the start of construction.

The Act states that the maximum amount that can be guaranteed under these regulations may not exceed 75% of the total cost, or 90% of the construction startup costs, whichever is less. These costs are defined using a point-in-time basis. The definition of construction and startup costs has been limited to the costs incurred from the start of final engineering design to the point of initial production. Total cost includes construction and startup costs, and related costs. These related costs include both front-end costs, such as feasibility studies and preliminary planning, and back-end costs, such as attaining steady-state production.

Guarantee agreements approved in accordance with these regulations will provide that the loan be serviced with the care and diligence in the disbursement, servicing, and collection of the loan that would be exercised by any prudent servicer dealing with a similar loan without a guarantee. Any guarantee agreement issued under these regulations will provide that authorized employees and representatives of DOE and EPA have access to the project site at all reasonable times, that the Secretary may initiate a review of costs at any time, and that the Comptroller General of the United States will make regular audits of guarantee recipients.

From time to time, situations will arise where actual project costs will exceed the estimates made at the time the guarantee is issued, including contingencies. The Secretary must be notified of overruns as soon as possible. If an additional guarantee is requested to cover overruns, a reevaluation of the project will be required using current data. The specific data to be submitted is detailed in the regulations. In general, the project data will be updated to reflect the impact of the new cost information upon the project. Specific public comment is desired on the proposed procedures and criteria covering overrun approvals.

With respect to any loan guaranteed under these regulations, the Secretary may enter into a principal and interest assistance contract with the borrower and pay, on behalf of the borrower, the principal and interest charges that become due and payable on the unpaid balance of any guaranteed instrument for the purpose of preventing default. No principal and interest assistance contract may be entered into unless the Secretary determines that it is in the public interest to permit the borrower to continue the project and that there is a reasonable opportunity for the borrower to reimburse the fund for the assistance provided. During this period of time, payment of the guarantee fee may be waived by the Secretary.

The guarantee agreement must also include provisions to protect the interest of the United States in the event of a default, to insure that the Secretary will be subrogated to the rights of the recipient of a default payment, and to assure that all technology, patents, and other proprietary rights necessary for the completion and operation of the project will remain available. The implementation of the provisions concerning the availability of patents and technology is based on DOE's experience with similar provisions in other programs dealing with contracts and grants. Since this requirement is unique in Government guarantee programs, and its implementation relies on DOE's experience, which applicants for loan guarantees and financial institutions may not be aware of, attention to these provisions and comments thereon is requested. (See § 485.12(h).)

III. Program Information

In accordance with the DOE Order 2030.1 (44 FR 1040, January 3, 1979), which implemented Executive Order (E.O.) 12044, "Improving Government Regulations," the Assistant Secretary for Conservation and Solar Applications (ASCS) has determined that these regulations are significant since their purpose is related to the President's goal of encouraging the production and use of alternative fuels. Demonstration facilities would divert urban wastes from landfills and could reduce the volume for ultimate disposal by up to 95%, thus reducing ground water, and air pollution. The Act authorizes a total Federal exposure of $300,000,000 from both the urban and the industrial waste programs combined. However, no appropriation law has yet been enacted which would permit the Secretary to issue a guarantee under this Act. It is contemplated that appropriation authority for the selection and award of guarantees will be made over a multiyear period. DOE has determined that these regulations will not require the preparation of an economic regulatory analysis, pursuant to DOE Order 2030.1, since implementation of this program is not likely to result in major economic impacts as this term is defined in the DOE Order.

In connection with the promulgation of this Proposed Rule, DOE is also carrying out obligations pursuant to the requirements of the National Environmental Policy Act of 1969, as amended, (NEPA) (42 U.S.C. Section 4321 et seq.). In December 1975, the U.S. Energy Research and Development Administration (ERDA) and the U.S. Department of Interior jointly issued a Draft Generic Environmental Impact Statement (EIS) to evaluate the potential environmental impacts associated with a program to demonstrate the commercial viability of synthetic fuels (ERDA–1547). Public Notice of the availability of the draft EIS was published **Federal Register** on December 2, 1975 (40 FR 55898). Public notice of the availability of the final EIS, entitled: "Alternative Fuels Demonstration Program," was published in the **Federal Register** on January 11, 1978 (43 FR 1637). Copies are available from National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22161, or for public review at the DOE Library, 20 Massachusetts Ave., N.W., Washington, D.C. That generic EIS concluded that all environmental impacts are not currently known for various processes, developed a strategy to assess and develop controls for potential impacts, and recommended appropriate environmental analyses for specific projects.

Subsequent to the publication of that Final EIS, Congress enacted the legislation on loan guarantees for alternative fuel demonstration facilities previously discussed herein. In order to ensure that potential environmental impacts specifically related to this legislation were considered, and to determine if a supplement to the programmatic EIS was needed for the urban waste program, a subsequent environmental assessment (EA) was prepared. Although ERDA's procedures, under which this EA was prepared, do not require public notice regarding an EA to be given, DOE desires public participation and comment on this program to help make it as effective as possible. Therefore, public notice of the availability of the EA, and notice of the negative determination regarding the necessity for an EIS, is being published in the **Federal Register** concurrently with this proposed rule. A 45-day public comment period, from the date of publication of that notice, is being allowed to maximize public participation.

DOE and the Environmental Protection Agency (EPA) are considering entering into a memorandum of understanding (MOU) clarifying the relationship between the agencies concerning the demonstration and commercialization of systems recovering

desirable forms of energy from urban wastes. It is contemplated that, under this MOU, EPA will provide support to municipalities for feasibility studies and procurement planning for the acquisition of systems under the President's Urban Policy and DOE will provide support for engineering, design and construction of facilities. DOE will not provide funds for feasibility study and procurement planning for demonstration facilities except in those instances where DOE desires to demonstrate a specific technique and EPA supported studies have not led to the selection of that technique. DOE will consider applications for support under the provisions of this regulation equally, whether or not a feasibility study has been supported by the Federal government, except that any federal support of the feasibility study will be considered within the 75% limitation on Federal support of the project.

This proposed regulations and the Department's proposed regulation on loan guarantees and other financial assistance for the alternative fuel demonstration program both implement, in part, the same statutory provisions of Section 19 of the Act. To the extent feasible or warranted by the nature of the programs and statutory authority, identical or similar provisions have been included in both proposed regulations. Therefore, comments received from the public on each proposed regulation may apply and will be considered by the Department in preparing the Department's final regulations on both programs.

IV. Comment Procedures

A. Written Comments

Interested parties are invited to submit written comments with respect to the regulations to the address indicated in the "ADDRESSES" section of this notice. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Loan Guarantees for Urban Wastes Demonstration Facilities" (Docket No. CAS–RM–79–108). Fifteen copies should be submitted. All written comments and related information must be received by the Department of Energy by September 17, 1979, in order to ensure consideration.

All information or data considered by the person furnishing it to be confidential must be clearly marked *"Confidential Treatment Requested."* In this case, only one copy need be submitted. Material so marked must be accompanied by a statement in support of the request for confidentiality, or it will be returned, and will not be considered in connection with these proposed regulations. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. Public Hearings

(1) Request Procedure. The times and places for the hearings are indicated in the "DATES" section of this notice. Interested parties may make a written request for an opportunity to make an oral presentation. They should describe the interest in the Loan Guarantees for Urban Wastes Demonstration Facilities concerned; if appropriate, state why they are a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a phone number where they may be contacted through the day before the hearing.

If selected to be heard, parties will be notified by DOE before 4:30 pm, eight days before the hearing. Parties selected should bring twenty-five (25) copies of their statement to the Hearings location.

(2) Conduct of Hearings. DOE reserves the right to select the persons to be heard at these hearings (in the event there are more requests to be heard than time allows), to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based upon the number of persons requesting to be heard.

A DOE official will be designated to preside at each of the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Interested parties may also submit in writing questions to be asked of any person making a statement at the hearings. Questions must be submitted to the same address indicated above for requests to speak, three days prior to the hearing at the locations concerned. Any person at the hearings who wishes to ask a question may submit the question, in writing, to the presiding officer. The presiding officer will determine whether these questions are relevant and whether time limitations permit them to be presented for answer.

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

Transcripts of the hearing will be made, and the entire record of the hearings, including the transcripts, will be retained by DOE and made available for inspection at the Freedom of Information Office, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:40 p.m., Monday through Friday. A copy of the transcript of a particular hearing may be purchased from DOE.

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

Issued in Washington, D.C., on July 11, 1979.

Omi G. Walden,

Assistant Secretary, Conservation and Solar Applications.

In 10 CFR it is proposed to add a new Part 485 to read as follows:

PART 485—URBAN WASTES DEMONSTRATION FACILITIES GUARANTEE PROGRAM

Subpart A—General Provisions

Sec.

485.1 Purpose.
485.2 Objectives.
485.3 Full faith and credit.
485.4 Definitions.
485.5 Program management.
485.6 Citizenship requirments.
485.7 Deviations

Subpart B—Demonstration Project Provisions

485.10 Project costs.
485.11 Demonstration facility requirements and conditions.
485.12 Guarantee requirements and conditions
485.13 Tax status of guaranteed obligations.
485.14 Guaranteed fees.
485.15 Cost overruns.
485.16 Information for Governors and others.
485.17 Principal and interest assistance.
485.18 Loan funding.
485.19 Applicability of other laws.
485.20 (Reserved)

Subpart C—Solicitation, Evaluation, and Selection of applications

Sec.
485.30 General information.
485.31 Evaluation criteria.
485.32 Evaluation and selection panel.
485.33 Initial applications.
485.34 Evaluation of initial applications.
485.35 Final applications.
485.36 Evaluation of final applications.
485.37 Closing.

Subpart D—Guarantee and Project Administration

485.40 Loan servicing.
485.41 Loan disbursements.
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485.43 Reduction or withdrawal of guarantee.
485.44 Assignment.
485.45 Treatment of loan repayments.
485.46 Project monitoring.
485.47 Survival of guarantee agreement.
485.48 Other Federal assistance.
485.49 Appeals.
485.50 (Reserved)

Subpart E—Default

485.60 Default, demand, payment, and collateral security liquidation.
485.61 Preservation of collateral security.

Authority: Section 19 of the Federal Nonnuclear Energy research and Development Act of 1974, Pub. L. 93–577, as amended by Pub. L. 95–238, 92 Stat. 61 (42 U.S.C. 5919) and Section 644 of the Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254).

Subpart A—General Provisions

§ 485.1 Purpose.

The purpose of these regulations is to set forth policies and procedures under which qualified applicants may obtain loan guarantees backed by the full faith and credit of the United States, for the purpose of financing the construction, startup, and related costs for demonstration facilities for the conversion of urban wastes into synthetic fuels and for the generation of desirable forms of energy, including synthetic fuels, from urban wastes in an environmentally acceptable manner.

§ 485.2 Objectives.

The objectives of the Urban Wastes Demonstration Facilities Guarantee Program are:

(a) To assure Federal support to foster demonstration program to generate desirable forms of energy, including synthetic fuels, from municipal wastes;

(b) To authorize assistance, through loan guarantees, for the construction, startup and related costs of facilities for the demonstration of the conversion of urban wastes into synthetic fuels, and for the generation of desirable forms of energy from urban wastes, in an environmentally acceptable manner;

(c) To gather information about the technological, economic, environmental, and social costs, benefits, and impacts of such demonstration facilities; and

(d) To demonstrate the commercial viability of the technology, which will insure that credit will be available in the future to urban wastes conversion facilities without the need for Federal guarantees to accept technological risks in the future.

§ 485.3 Full faith and credit.

The full faith and credit of the United States is pledged to the payment of all guarantees issued under these regulations with respect to principal and interest. The guarantee agreement will be conclusive evidence that the guarantee, and the underlying loan, comply with the provisions of the Act and these regulations. A guarantee will be valid and incontestable by the government, except for fraud or material misrepresentations by the holder.

§ 485.4 Definitions.

(a) "Act" means the Federal Nonnuclear Energy Research and Development Act of 1974, Pub. L. 93–577, as amended by Title II, Section 207 of Pub. L. 95–238.

(b) "Applicant" means any individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, municipality, or other non-Federal entity that has authority to enter into a loan agreement for which a guarantee under these regulations is being sought.

(c) "Borrower" means any applicant who has had an application approved by the Secretary, and who receives the proceeds from a loan that is guaranteed in accordance with these regulations.

(d) "Commitment to guarantee" means a document issued by the Secretary that sets forth, specifically or by reference, the terms and conditions under which the Secretary will subsequently issue a loan guarantee.

(e) "Construction and startup costs" means all reasonable project costs, computed in accordance with generally accepted accounting principles and practices, consistently applied, or that system required by law, would be incurred from the start of final engineering design to the point of initial production.

(f) "Default" means the failure of a borrower to make payments of principal and interest on a loan guaranteed by the Federal government within the time period specified in the guarantee agreement, or the failure of the borrower to comply with material terms or conditions as specified in the guarantee agreement.

(g) "Demonstration" means the establishment of a facility to exhibit the technical, economic, or environmental feasibility, normally under commercial conditions, of a new technology, device, technique, process or practice, or a significantly new combination or use of technologies, processes or institutional practices to convert urban wastes to synthetic fuels or alternative forms of energy.

(h) "Desirable forms of energy" means energy that displaces fossil fuels, including, but not limited to:

(1) Synthetic fuels, direct heat, electricity, low-grade heat and ammonia; or

(2) Recyled materials originally produced by methods which consumed significant amounts of energy.

(i) "Fund" means the separate fund established in the Treasury of the United States, as provided for in Section 19(n) of the Act, and as further described in § 485.42, "Financial assistance fund."

(j) "Guarantee agreement" means a written agreement by which DOE guarantees payment of principal and accrued interest on specific financial obligations of a borrower.

(k) "Holder" means an individual or any legal entity that has lawfully acquired all or part of the rights, title, and interest in the guaranteed portion of the loan.

(l) "Indian tribe" means any tribe, band, or community having a governing body recognized by the Secretary of Interior.

(m) "Initial production" means that point where startup and testing of equipment is complete, and productive operation can begin.

(n) "Lender" means any individual, partnership, corporation, Federal entity, or other legal entity formed for the purpose of, or engaged in the business of lending money. Examples of lenders may include, but are not limited to, commercial banks, savings and loan institutions, insurance companies, factoring companies, investment banking organizations, institutional investors, venture capital investment companies, trusts, Federal entities, or other entities designated as trustees or agents acting on behalf of bondholders or other lenders.

(o) "Loan" means any financial obligation, including, but not limited to, bonds, debentures, notes, or other financial debt instruments.

(p) "Municipal waste" is synonymous with urban waste.

(q) "Municipality" means a city, town, township, borough, county, parish, district, surburban area, Indian tribe, or other public body created by or pursuant to State law.

(r) "Project" means a group of interrelated tasks undertaken, or intended, which, when completed, will result in a facility of the conversion of urban waste into synthetic fuels, or for the generation of desirable forms of energy from urban waste, or both.

(s) "Secretary" means the Secretary of Energy, or designee.

(t) "Servicer" means any individual, partnership, corporation, Federal entity, or other legal entity in the business of, or being capable of servicing financial debt instruments.

(u) "State" means any State of the United States and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, or any territory or possession of the United States.

(v) "Steady-state production" means the operation of a system or the ability to operate a system, at the expected, normal levels for which the system was designed.

(w) "Synthetic fuels" means those oils or gases used as fuel that are not derived from petroleum or natural gas.

(x) "Total costs" means all reasonable project costs, computed in accordance with generally accepted accounting principles and practices, consistently applied, or that system required by law, that would be incurred from the inception of planning to the point of steady-state production or positive cash flow, whichever comes first.

(y) "United States" means the several States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(z) "Urban wastes" means wastes, including, but not limited to, trash, garbage, sewage sludge, and industrial wastes that leave the industry's confines, that are generated and collected in an urban environment. Urban wastes does not include: industrial process wastes that do not enter the municipal system; agricultural wastes produced in an agricultural environment that remain within the confines of that environment; or forestry wastes generated on large wooden tracts not in an urban environment.

§ 485.5 Program management.

(a) Program management responsibility is vested in the Chief, Urban Waste and Municipal Systems Branch, Office of Buildings and Community Systems, U.S. Department of Energy (DOE). Specific questions regarding these regulations or urban wastes conversion technology pertinent to guarantees should be directed to the program manager.

(b) The administration of any project entered into pursuant to these regulations for any commercial demonstration facility for the conversion or bioconversion of solid waste will be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency (EPA) and DOE on the "Development of Energy From Solid Wastes," and related documents. The interagency agreement provides that:

(1) For those energy-related projects of mutual interest, planning will be conducted jointly by EPA and DOE, following which project responsibility will be assigned to one agency;

(2) Energy-related projects for recovery of synthetic fuels or other forms of energy from solid waste will be the responsibility of DOE; and

(3) EPA will retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that these projects are consistent with any applicable suggested guidelines pursuant to Section 1008 of the Resource Conservation and Recovery Act of 1976, Pub. L. 94–580, as amended, and any applicable State or regional solid waste management plan.

§ 485.6 Citizen requirements.

An applicant for financial assistance under these regulations must be a citizen or a national of the United States. An individual, firm, corporation, company, partnership, association, society, trust, joint venture, joint stock company, or other non-Federal entity may not be deemed to be a citizen or national of the United States unless the Secretary determines that such applicant satisfactorily meets all the requirements of Section 2 of the Shipping Act of 1916 (46 U.S.C. 802) for determining such citizenship, except that the provisions in such Section 2(a) concerning (a) the citizenship of officers or directors of a corporation, and (b) the equity required to be owned in the case of a corporation, association, partnership, or firm operating a vessel in the coastwise trade shall not be applicable. The Secretary, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, association, partnership, or firm in which controlling interest is owned by citizens of countries that are participants in the International Energy Agreement.

§ 485.7 Deviations.

To the extent that such requirements are not specified by the Act or other applicable statutes, DOE's Assistant Secretary for Conservation and Solar Applications may authorize deviations on an individual application basis from the requirements of these regulations, except as regards environmental matters, upon a finding that such deviation is essential to program objectives, and the special circumstances presented make such deviation clearly in the best interest of the Government. Recommendation for any deviation will be submitted in writing by the program office to the Assistant Secretary. Such recommendations will include a supporting statement, which indicates briefly the nature of the deviation requested and the reasons therefor. This deviation authority may not be redelegated.

Subpart B—Demonstration Project Provisions

§ 485.10 Project costs.

(a) The cost elements set forth in this Section are for the purpose of illustrating the manner by which the construction, startup, and related costs of the project may be determined. It is expected that costs will be accumulated in accordance with generally accepted accounting principles and practices that are consistently applied. Those reasonable and customary costs that are paid, expected to be paid, and directly related to the project will be used to estimate the total cost for a demonstration facility, except as set forth in paragraph (b) of this Section. These costs may include, but are not limited to:

(1) Costs incurred by the applicant before the approval of the guarantee agreement that are directly connected with the project (e.g., preliminary planning, design, development, etc.);

(2) Professional services and fees necessary to obtain licenses, permits, and to prepare environental reports and data;

(3) Financial and legal services costs;

(4) Interest costs and other normal costs charged by lenders;

(5) Costs of acquisition or rental of real property, including engineering fees, surveys, title insurance, recording fees, and legal fees incurred in connection with land acquisition or rental, site improvements, site restoration, and abandonment costs, access roads and fencing;

(6) Necessary and appropriate insurance and bonds of all types (e.g., bid and construction bonds, etc.);

(7) Engineering, architectural, legal and bond fees and insurance paid in connection with construction of demonstration facility; and materials, labor, services, travel and transportaion for facility construction, startup, and tests;

(8) Equipment purchase, placement and startup testing costs;

(9) A reasonable contingency reserve to cover the possibility of cost increases during the processing of the application, and during construction;

(10 Purchase of flood insurance if required;

(11) Costs to provide safety and environmantal protection equipment, facilities, and services;

(12) Employees' salaries, wages, consultant's fees, materials, and other operating expenses associatied with the demonstration plant startup;

(13) Where applicable, fees for royalties and licenses negitiated through "arms length" transactions that relate to the construction phase of the project;

(14) Cost of any current assets directly related to the project, including cash reserves, and other forms of working capital;

(15) Costs of data gathering (technical, environmenrtal, economic and socioeconomic impacts) and preservation required by the guarantee agreement or necessary for operation of the facility;

(16) Bond financing costs and trustee's fees and commissions;

(17) Guarantee fees payable by the borrower, if that is included in the terms and conditions of the debt instrument and the guarantee agreement; and

(18) Other necessary and reasonable cost;

(b) Costs that are not considered as allowable project costs include, but are not limited to, the following:

(1) Fees and commissions charged to the borrower, including finder fees, for obtaining Federal funds;

(2) Parent corporation, general, and administrative expenses, and other parent corporation assessments, including company oragnizational expenses;

(3) Goodwill, franchise, trade, or brand name costs;

(4) Dividends and profit sharing to stockholders, employees, and officers;

(5) Expenses not paid or incurred by the applicant;

(6) Costs that are excessive or are not directly required to carry out the project as determined by the Secretary; and

(7) Operating expenses incurred after the point of steady-state production, or positive cash flow, whichever comes first.

(c) The Secretary may audit any or all cost elements included by the borrower in the estimated project cost, and reserves the right to exclude or reduce the amount of any allowable project cost which the Secretary determines to be unnecessary or excessive. The borrower will make available records and other data necessary to permit the Secretary to carry out such an audit. In carrying out this responsibility, the Secretary may utilize employees of Federal agencies or may direct the borrower to submit to a review performed by an indpendent public accountant or other competent authority.

§ 485.11 Demonstration facility reqirements and conditions.

A guarantee or a commitment to guarantee a loan may be made only if the following demonstration facility requirements and conditions are met as determined by the Secretary:

(a) The project will, at minimum, comply with applicable Federal, State, and local environmental laws and regulations and the terms and conditions of the guarantee regarding environmental protection. The issuance of a Federal guarantee under these regulations is subject to, among others, the provisions of the National Environmental Policy Act of 1969, as amended, (EPA) (42 U.S.C. Section 4321 *et seq.;* Pub. L. 91–190), applicable DOE regulations, and guidelines implementing NEPA, Executive Order (E.O.) 11988—Floodplain Management, and E.O. 11990—Protection of Wetlands. The program manager is responsible for conducting a preliminary environmental analysis, and, if necessary, preparing an environmental assessment (EA) or environmental impact statement (EIS). In addition to generally applicable criteria used to determine the proper scope of environmental review to be accorded individual applications, DOE may review and consider the environmental impacts associated with the commerical operation of the project throughout its useful life, even where the guarantee may be limited to only a small or preliminary segment of the entire commerical project. The Manager will utilize such analyses in the decision-making process regarding the design and minimization of the environmental impacts for a proposed project;

(b) The project is coinsidered to be technically and economically feasible and environmentally acceptable;

(c) There is sufficient evidence that the applicant will initiate and complete the project in a timely, efficent, and acceptable manner;

(d) The project will be performed in the United States;

(e) The project is not for the manufacture of component parts for demonstration facilities eligible for assistance under these regulations; and

(f) The project is consistent with the objectives set forth in § 485.2.

§ 485.12 Guarantee requirements and conditions.

A guarantee of a loan for a demonstration facility may be issued only if the following requirements and conditions are met as determined by the Secretary:

(a) No other reasonable means of financing the project is available;

(b) The loan to be guaranteed may not exceed 75% of the total costs, or 90% of the construction and startup cost of the project, whichever is less. The guarantee may be for the full amount of the loan, or may provide for only a partial guarantee where other lenders are participating in the loan. Where only a partial guarantee is made by the Secretary, the guarantee agreement and underlying loan agreement will include adequate provisions regarding the rights, interests, and responsibilities of the parties in the event of a default, and disposition of any receipts obtained after liquidation;

(c) Where the cost of a demonstration facility to be assisted with a loan guarantee exceeds $50 million, the following provisions will be complied with:

(1) The making of the guarantee, or commitment to guarantee, is specifically authorized by legislation enacted by Congress; or

(2) Both Houses of Congress pass a resolution stating in substance that they favor issuing the guarantee;

(d) Full repayment of a guaranteed loan is to be made over a period of 30 years, or a period equal to 90 percent of the expected average useful economic life of the project's major physical assets, whichever is less. In calculating such period the Secretary will utilize generally accepted accounting prinicples and practices;

(e) The amount of the loan to be guaranteed, when combined with other funds available to the applicant, will be sufficent to carry out the project;

(f) There is a reasonable assurance of repayment of principal and interest of the loan by the borrower;

(g) The project assets and other collateral security or surety, as

determined by the Secretary to be necessary, are pledged as security for the repayment of the loan;

(h) The applicant agrees to the following provisions with respect to patents, technology, and other proprietary rights:

(1) Such detailed terms and conditions as the Secretary considers appropriate to protect the interests of the United States in the case of default that are included in the guarantee agreement;

(2) All patents, technology, and other proprietary rights which are necessary, will be available, on equitable terms, including due consideration to the amount of default payments made by the United States, to any person selected including, but not limited to the Secretary, to complete and operate the defaulting project;

(3) Title to inventions conceived or first actually reduced to practice in the course of or under any guarantee or commitment to guarantee authorized by these regulations will vest in the Government, except the Secretary may waive the rights of the Government in accordance with Section 9 of the Act. Guarantees or commitments to guarantee entered into under these regulations will incorporate, to the extent appropriate, the provisions contained in DOE's regulations on "Patents, Data and Copyrights" (41 CFR Part 9–9) and appropriate data and copyright provisions; and

(4) Patents, including any inventions for which a waiver was made by the Secretary under Section 9 of the Act, and technology resulting from the demonstration facility, will be treated as project assets of the facility. However, inventions, title to which is vested in the United States, may not be treated as project assets for disposal purposes unless the Secretary determines in writing that it is in the best interests of the United States to treat them as project assets;

(i) The guaranteed loan bears a reasonable interest rate, as determined by the Secretary, in consultation with the Secretary of Treasury, after taking into account the range of interest rates prevailing in the private sector for similar government guaranteed obligations of comparable risk;

(j) Any loan for the project which is not part of the guaranteed loan is subordinate to the guaranteed loan, and the guaranteed loan is in a first lien position regarding all assets of the project and all collateral security pledged. However, if any of the assets offered by the borrower as collateral security for the guarantee are subject to prior financing liens by other creditors, DOE will require that such prior liens be removed, or an acceptable legal arrangement be made with such prior lien creditors where DOE will be protected in the event of default. An arrangement of this nature must be in the form of written agreement between DOE and the prior lien creditors and provide the following conditions:

(1) Ample notice of default and collateral security sale;

(2) A plan of liquidation offering mutual protection to DOE and other creditors; and

(3) An option on the part of DOE, which would be assignable to a third party, to have the first lien debt payable according to the original installment terms (even after defult) if the project operation is undertaken by DOE or an acceptable third party or on behalf of DOE.

(k) The applicant agrees to the Secretary, after a period of not less than 10 years from the closing date of the agreement, to determine the feasibility and advisability of terminating the Federal participation in the demonstration facility. In the event that a decision for termination is made, the borrower, upon notification by the Secretary, has not less than two nor more than three years to arrange for alternative financing. At the expiration of the designated period of time, if the borrower has been unable to secure alternative financing, the Secretary may charge the borrower an additional fee of one percent per annum on the remaining principal to which the Federal guarantee applies;

(l) The applicant agrees that no change of project ownership or financing arrangement will occur without prior written consent of the Secretary;

(m) There is satisfactory evidence that the borrower is willing, competent, and capable of performing the terms and conditions of the loan;

(n) The lender agrees not to accelerate payment of the borrower's indebtedness, except as may be permitted in the guarantee agreement;

(o) Adequate provisions for servicing the loan and monitoring the project are provided for;

(p) The applicant agrees to comply with the Flood Disaster Protection Act of 1973 (Pub. L. 92–234);

(q) The wages and rates paid to laborers and merchants employed by contractors or subcontractors in the performance of construction work must not be less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–5);

(r) No person in the United States will be excluded from participation in, denied the benefits of, or subjected to discrimination under the proposed project on the ground of race, color, religion, national origin, sex, handicap, or age;

(s) The applicant agrees to carry out an acceptable plan for small business concerns to participate in the project to the optimum extent feasible, consistent with the size and nature of each project;

(t) The applicant agrees to incorporate or cause to be incorporated into all construction contracts under the guaranteed loan the provisions prescribed by 41 CFR 60 pursuant to the provisions prescribed for Government contracts by Section 202 of Executive Order No. 11246, September 28, 1965, 30 FR 12319 (regarding nondiscrimination in employment by Government contractors and subconstractors); and

(u) The applicant agrees not to undertake any work in connection with the project for another Federal agency without the Secretary's written approval.

§ 485.13 Tax status of guaranteed obligations.

In accordance with the Act, with respect to any obligation guaranteed under these regulations, the interest paid on the obligation and received by the holder will be included in gross income for the purpose of Chapter 1 of the Internal Revenue Code of 1954, as amended. Where the borrower would normally issue a nontaxable obligation, the Secretary will pay the borrower from the Fund that differential portion of the interest on the obligation, that is determined by the Secretary of the Treasury to be appropriate, after taking into account current market yields on obligations of the borrower, if any, and on other obligations with similar terms and conditions having interest which is not ordinarily included in gross income for Federal income tax purposes.

§ 485.14 Guarantee fees.

Guarantee fees will be imposed on the guaranteed portion of the loan, and will be computed at a rate of up to one percent per year on the estimated principal balance for the coming year. Payments of the guarantee fee will be made at the time of the closing of the guarantee, and annually thereafter, or at other intervals to be determined by the Secretary. The guarantee fee will be used to defray the administrative costs and probable losses of the program. This fee may be passed to the borrower, and in such case, may be included in the cost of the project. If principal and interest

assistance is in effect, payments of this fee may be deferred by the Secretary for the term of the principal and interest assistance contract.

§ 485.15 Cost overruns.

(a) At the discretion of the Secretary, a guarantee agreement may be amended to increase the amount of the loan guaranteed in the event that the actual project construction and startup costs to be incurred exceed the original estimates. In no event may the guarantee be increased to cover more than 60 percent of the actual overrun costs. All the following conditions must be met by the borrower before the Secretary may determine whether to amend the guarantee agreement to cover such cost overruns:

(1) The Secretary must be notified as soon as an overrun is anticipated, along with the reasons for the expected costs overrun;

(2) The borrower must provide, when requesting a guarantee increase to cover overrun costs:

(i) The revised expected completion date, and construction and startup costs for the project;

(ii) An acceptable plan indicating how the cost overruns will be funded;

(iii) A list of the additional collateral security, if any, to be pledged for the guarantee increase; and

(iv) Updated information on the project's economics to indicate that a reasonable assurance of repayment of the guaranteed loan (including the cost overrun) by the borrower still exists.

(b) Based on the information submitted by the borrower and other information known to the Secretary, the Secretary may, at the Secretary's discretion, provide for the guarantee of additional funds for the expected cost overruns upon making the following finding:

(1) The continuation of the project is worthwhile to meet program objectives, and is in the public interest; or

(2) The probable net cost to the Government in increasing the guarantee to reflect the increase will be less than that which would result in the event of default.

§ 485.16 Information for Governors and others.

(a) As soon as the Secretary receives an initial application for a project which might receive a guarantee, the Secretary will inform the Governor of the State, and officials of each political subdivision and Indian tribe in which the facility will be located, or directly having an interest in the geographic area, or in the facility. In addition the public will be notified through notices in appropriate local newspapers of general circulation. The notices will be based upon the initial application. All notices will provide information on how interested parties may comment on the application. All comments so received will be considered in connection with the application.

(b) If, within 60 days of notification, the Governor of the State in which the facility is to be located recommends that the guarantee not be issued, the application will be rejected, unless the Secretary decides that the application should be further considered. In such a case, the Secretary will notify the Governor of the reasons in writing and provide 30 days for response.

(c) The Advisory Council on Historic Preservation may review and comment upon applications for guarantees for any project which would affect property listed or eligible for listing in the National Register of Historic Places or which may meet the criteria for listing in the National Register, pursuant to 36 CFR Part 800.

§ 485.17 Principal and interest assistance.

(a) With respect to any loan guaranteed under this regulation, the Secretary may enter into a principal and interest assistance contract with the borrower to pay the lender, on behalf of the borrower, the principal and interest charges that become due and payable on the unpaid balance of the loan, if the Secretary finds that:

(1) The borrower is unable to meet principal or interest payments;

(2) It is in the public interest to permit the borrower to continue to pursue the project;

(3) Such principal or interest assistance increases the probability that the loan will be repaid;

(4) The probable net cost to the Federal Government in paying such principal or interest will be less than that which would result in the event of a default for the nonpayment of principal or interest;

(5) The amount of principal or interest payment which may be made under this Section will be no greater than the amount of principal or interest that the borrower is obligated to pay under the guaranteed portion of the loan agreement; and

(6) The borrower agrees to reimburse the Secretary for such payment (including interest) on such terms and conditions which are satisfactory to the Secretary, and executes all necessary documents as the Secretary may require.

(b) If the Secretary determines that principal and interest assistance is not warranted, the Secretary will notify the borrower, and other parties, as appropriate.

§ 485.18 Loan funding.

(a) The Federal Financing Bank (FFB) is an agency operating under the United States Treasury Department which has authority to purchase federally guaranteed debt. Loans guaranteed under these regulations may be funded through private lenders or the FFB. Funding by private lenders will have preference except in the following cases:

(1) Whenever the Secretary may be required to make an interest differential payment as provided for in § 485.13; or

(2) Whenever the Secretary determines, after consultation with the Secretary of the Treasury, and negotiation with the private lender, if any, or another private lender, that the interest rate, maturity, lending fees, or other terms and conditions applicable to the borrower do not reflect the value of a guarantee backed by the full faith and credit of the United States.

(b) Whenever a loan is funded through the FFB, the loan will be serviced, in accordance with the loan servicing requirements, as described in § 485.40, "Loan servicing," by parties acceptable to the Secretary. The cost of servicing will be paid by the borrower. In addition, the guarantee fee will be paid by the borrower, directly to the Secretary, and may be included as a project cost.

§ 485.19 Applicability of other laws.

Nothing in these regulations may be construed as affecting the obligations of any party to comply with Federal and State environmental, land use, water, and health and safety laws and regulations, or to obtain applicable Federal, State, and local permits, licenses and certificates.

§ 485.20 [Reserved]

Subpart C—Solicitation, Evaluation, and Selection of Applications

§ 485.30 General information.

(a) The application process for loan guarantees will consist of these phases:

(1) Solicitation of initial applications;

(2) Initial application evaluation and selection;

(3) Review by other Federal agencies;

(4) Final application and review; and

(5) Report to Congress and award of guarantee.

(b) A solicitation for initial applications will be issued periodically by the Secretary. The solicitations will

be published and notice thereof given in the *Commerce Business Daily* and the **Federal Register.** The solicitations will include:

(1) A description of the types and number of demonstration projects the program is interested in supporting by the use of guarantees;

(2) Initial application requirements and format;

(3) Time schedule for submission of initial applications and place to submit; and

(4) Applicable provisions of these regulations necessary to complete an application, including the evaluation criteria of § 485.31. the solicitation may further detail how the evaluation criteria will be applied to the projects being solicited.

(c) Presubmission conferences open to all parties may be conducted by DOE program office personnel.

(d) Notification of initial selection of a project for support and request for submission of a final application does not insure that the application will receive a guarantee.

(e) Subject to the requirements of law, information such as trade secrets, commercial and financial information, and other information or data concerning the demonstration project which the applicant or lender submit to DOE in writing during the preliminary discussions or at other times throughout the duration of the project, on a privileged or confidential basis, may not, in accordance with the DOE regulations concerning public disclosure of information, and Section 19(t) of the Act, be disclosed by DOE without prior notification to the submitter. Any submitter asserting that the information is privileged or confidential will appropriately identify and mark such information.

(f) Technical, financial, environmental, marketing, and management information maintained by the Secretary under this program will be made available to the public, subject to the provisions of 5 U.S.C. Section 552, and 18 U.S.C. Section 1905, and to other Government agencies in a manner that will facilitate its dissemination, provided that:

(1) Upon a showing satisfactory to the Secretary by any person that any information or portion thereof obtained under this program by the Secretary directly or indirectly from such person would, if made public, divulge trade secrets or other proprietary information of such person, the Secretary may not disclose such information, and disclosure thereof will be punishable under Section 1905 of Title 18, United States Code; and

(2) The Secretary may, upon request, provide such information to any delegate of the Secretary for the purpose of carrying out this Act, and the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, the Federal Trade Commission, the Environmental Protection Agency, the General Accounting Office, other Federal agencies, or heads of other Federal agencies, when necessary to carry out their duties and responsibilities under these regulations and other laws, but such agencies and agency heads may not release such information to the public. This Section is not authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman.

(g) No guarantee or commitment to guarantee will be entered into unless authority is provided for such guarantees by law.

§ 485.31 Evaluation criteria.

The following criteria will be used as the basis for competitive evaluation of applications:

(a) The arrangements for and extent to which risk will be shared by the parties to the project other than the United States. This includes the percentage of the total cost of the project to be guaranteed, stages of inclusion of funds not guaranteed, equity invested, extent to which the equity reflects sunk costs, and types of collateral security that would be pledged;

(b) The net energy that can be recovered or conserved. This includes relative energy efficiencies, the utility of the energy form to the area, and the net amount of fossil fuels displaced;

(c) Potential applicability of the project to other parties or other geographic areas. This includes the extent to which the technology is adaptable to or repeatable in, other locations, or the extent to which the project demonstrates how institutional barriers can be overcome;

(d) Adequacy of the management plan for the project, and qualifications and experience of key personnel with all aspects of similar operations;

(e) Technical probability of success and advances in the state-of-the-art; and

(f) Potential environmental, health and safety impacts, as well as socio-economic and competitive impacts. This includes the labor market impact, present vs. proposed method of disposing of waste, and support of the community.

§ 485.32 Evaluation and selection panal.

(a) When any individual project, together with later phases of the same project, is estimated to cost in excess of $50 million, a comprehensive evaluation will be conducted by a specifically constituted panel which will follow the procedures and documentation requirements of the Source Evaluation Board (SEB) Handbook (proposed at 44 FR 6038, Jan. 30, 1979) modified, as appropriate, to conform to the solicitation process set forth.

(b) When no individual project is expected to meet the $50 million threshold, initial applications submitted in response to a solicitation will be evaluated by a panel which will be appointed by the program office. The panel will utilize the procedures and documentation requirements of the SEB Handbook, modified,as appropriate, to conform to the solicitation process set forth, whenever necessary to insure the impartial, equitable, and thorough evaluation of each application. The panel will be composed of appropriate program office personnel, and other DOE personnel, including representatives of Procurement, Controller, and General Counsel, and, considered appropriate by the appointing official, supplemented by personnel from other Government agencies. The representative of General Counsel will be a nonvoting member of the panel. Personnel from DOE or operating contractors may be used as advisors to the panel when their services are necessary and available. Care is to be taken in the selection of these personnel so as to avoid any actual or apparent conflict of interest.

(c) The individual authorized to approve the loan guarantee will be:

(1) If the estimated demonstrated project cost is less than $50 million, appointed by the Assistant Secretary for Conservation and Solar Applications;

(2) If the project cost is between $50 million and $100 million, the Assistant Secretary for Conservation and Solar Applications;

(3) If the project cost is in excess of $100 million, the Under Secretary of Energy.

§ 485.33 Initial applications.

(a) The initial application will be based on at least the conceptual design for the project.

(b) The applicant will provide information in support of the initial application in the form and with the content prescribed in the solicitation. At a minimum, the following information will be submitted in a brief but precise manner:

(1) A description of the scope, nature, extent, milestones, and location of the proposed project, including specification of the technology;

(2) A description of prior operating experience with the technology;

(3) A preliminary design of the demonstration plant;

(4) Proposed construction and operation schedules;

(5) Preliminary budget-type estimates of project costs, and operating and maintenance costs;

(6) Mass and energy balances for the proposed plant, to include energy data on the inputs and outputs from the plants;

(7) A preliminary analysis of the project's technical and economic feasibility, including the feasibility and effect of source separation techniques, if applicable;

(8) A description of the applicant's management concept and plan of operation to be employed in carrying out the project;

(9) Evidence supporting the applicant's ability to complete the project;

(10) A preliminary analysis of the market for the product(s) to be produced, and the relevant economics justifying the analysis;

(11) Amount of loan and guarantee requested;

(12) Proposed risk allocation among project participants;

(13) Evidence showing that the amount of the financial assistance, together with other financing, will be sufficient to carry out and complete the project;

(14) A written affirmation from the applicant supporting the necessity for a Federal loan guarantee. The applicant will provide information necessary for a determination by the Secretary whether reasonable financing without a Federal guarantee is available;

(15) Other data, such as social, employment, and economic factors, that the applicant desires to have considered;

(16) A written affirmation, including a copy of the applicant's nondiscrimination policies and programs and information on any pending affirmative action complaints, from the applicant indicating its adherence to the Civil Rights Regulations (Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000a et. seq., as amended), to Title XI of the Education Amendments of 1972 (20 U.S.C. et. seq. 681), and to the Age Discrimination Act of 1975 (Pub. L. 94–135), which prohibit discrimination on the basis of race, color, national origin, sex, handicap, and age, in programs and activities receiving Federal assistance;

(17) Other information as requested by the Attorney General or the Chairman of the FTC to assess the impact of a specific loan guarantee on competition and concentration in the production of energy; and

(18) Any other information requested by the Secretary in the solicitation.

(c) The following items illustrate the range, but not necessarily the full breadth, of additional information that may be required, dependent upon the type, complexity and cost of the project, and the type of applicant (e.g., municipality, private firm, etc.):

(1) A description of the applicant's organization and, when applicable, a copy of the business certificate, partnership agreement or corporate charter, bylaws, and appropriate authorizing resolutions;

(2) A description of the management experience of each officer or key person in the applicant's organization who is to be associated with the project;

(3) The past financial history of the firm, including financial statements and projections as to the firm's future financial status;

(4) Business and financial interests of principal organizations (e.g., parent and/or subsidiary of the applicant);

(5) A description of the technical and environmental feasibility of the demonstration and of the potential environmental impacts of the demonstration, including mitigation measures;

(6) Evidence of a credit rating, if any (e.g., Dun and Bradstreet, Standard and Poor's, Moody's etc.);

(7) A copy of the lender's conditional loan commitment document issued to the applicant, if applicable; and

(8) When appropriate to the project, evidence of the lender's experience in surveying the financial aspects of complex technological projects.

§ 485.34 Evaluation of initial applications.

(a) Upon receipt of initial applications and all necessary supporting material, the Secretary will screen each application to determine if the proposed demonstration project described in the application is within the funding available. Applicants whose proposed projects cannot be covered with the available funding will be notified by the Secretary together with the basis for this determination.

(b) Governors and others will be notified in accordance with the provisions of § 485.16.

(c) Applications for projects determined to fall within the limits of available funding will then be evaluated to determine whether:

(1) The application is in compliance with all provisions of these regulations, and the solicitation;

(2) There are no other reasonable means of financing available to the applicant; and

(3) The project is technically feasible.

(d) The Secretary will, with due regard for the need for competitive evaluation:

(1) Evaluate all projects within a technology area against the evaluation criteria set forth in these regulations, and the solicitations;

(2) Determine whether or not to support the application; and

(3) Notify the applicant who is not selected for support of the basis for the disapproval.

(e) While the applications selected for support are being evaluated by other Federal agencies, as outlined below, applicants whose applications have been selected for support will be requested to develop further data for the final application; however, this does not insure that the applicant will receive a guarantee.

(f) Applications selected for support will be forwarded to the U.S. Attorney General, the Chairman of the FTC and other appropriate Federal agencies, such as EPA and the Department of the Treasury:

(1) The Secretary will request written views, comments, and recommendations from both the Attorney General and the Chairman concerning the impact of a specific loan guarantee on competition and concentration in the production of energy. The Secretary will give due consideration of the views, comments, and recommendations received from the Attorney General and the Chairman of the FTC;

(2) If the Secretary determines to issue the guarantee to an applicant, in spite of the negative recommendation by the Attorney General or the Chairman of the FTC, the Secretary will forward the decision papers and the recommendations of the Attorney General and the Chairman of the FTC to the President for a written decision on whether it is in the national interest to have the Secretary issue a guarantee to the applicant;

(3) If the President upholds the recommendation of the Attorney General or the Chairman of the FTC against making such guarantee, the Secretary will notify the applicant that its application has not been approved and the reasons for such disapproval.

(4) If the Secretary receives a negative recommendation from the Attorney

General, the Chairman of the FTC, the Administrator of the EPA, or the Secretary of the Treasury, and decides to withdraw support of the application, the applicant will be notified of the basis for this decision.

§ 485.35 Final applications.

(a) Applicants whose projects have been accepted for further consideration at the end of the initial application phase will submit a final application to the Secretary.

(b) The applicant will provide information in support of the final application in the form and with the content that the Secretary considers necessary. This information includes, but is not limited to:

(1) All information submitted in the initial application, updated and in detail;

(2) A description of, and proof of title to, the land for the proposed site, or other evidence that the land is available to the project for the life of the project;

(3) Proof that adequate waste, electricity, water, and other necessary resources are committed to the project;

(4) An environmental report (including floodplain/wetlands information) from which DOE can determine if a more detailed environmental analysis, such as an EA or EIS, is required;

(5) Plans for long-term use of the plant if the demonstration is successful;

(6) Copies of all applications filed with, and any approvals issued by, Federal, State, and local government agencies for permits and authorizations to conduct construction and operations associated with the project;

(7) A description of the intended sources and amount of capital to be provided by the applicant for the construction and initial operation of the demonstration facility, together with evidence of a commitment from the intended sources of the capital, a copy of each agreement, and evidence of the financial ability of each source to honor its commitment;

(8) A detailed cash flow breakdown of the estimated construction, startup, and related costs, plus operating and maintenance costs, for the first five years of the project;

(9) The terms and conditions of the loan to be guaranteed, including the proposed interest charges and principal repayment schedule;

(10) A listing of assets associated, or to be associated, with the project which will serve as collateral security for the loan, including appropriate data as to the value and useful life of any physical assets and a description of any other associated collateral security to be included in the guarantee agreement;

(11) Copies of all current or proposed contracts between the applicant and any third parties which are significant to the proposed project;

(12) A copy of the applicant's plan for providing an opportunity for small business concerns to participate in the project;

(13) A description of salaries and other financial remuneration, including profit sharing and stock options, as appropriate, to be paid to principal officers and employees of the applicant who are, or will be, directly associated with the project;

(14) Credit history of the applicant and any principal party who owns or controls a five percent or greater interest in the borrower and its major affiliates;

(15) A description, and certification, if requested, of other Federal financial assistance available (e.g., direct loans, guarantees, grants, price supports, etc.), or expected to be made available to the applicant in connection with the project;

(16) Evidence showing an ability or acceptable plan for raising funds to cover overrun costs that may exceed the contingency for overrun cost factors;

(17) A description of the applicant's debt history, if any, and a listing of outstanding obligations; and

(18) Evidence that the servicer is competent to administer the terms and conditions of the loan and the guarantee agreement, as appropriate.

(c) In the case of a private placement of a loan involving a single lender, group of lenders, syndicate, etc., in addition to supporting information illustrated in paragraph (b) of this Section, the Secretary may independently obtain, or may require that the lender include with the guarantee application, information regarding the lender considered necessary by the Secretary, including, but not limited to:

(1) A description of the lender's organization and legal authority under which the lender operates its business, together with a copy of any appropriate authorizing resolutions necessary for the transaction between the lender and applicant;

(2) Copies of investigations obtained from credit bureaus, references, inquiries, professional associations and others regarding the creditworthiness of the applicant;

(3) Information covering the management experience of each officer or key person in the lender's organization who is or will be associated with the loan;

(4) A description of the management plan to be employed in servicing and monitoring the loan;

(5) A written assessment of all aspects of the applicant's loan application, in sufficient detail, as would be completed by any prudent lender considering a loan without a guarantee;

(6) A copy of the proposed loan agreement to be executed by the applicant and the lender, together with copies of all other documents proposed by the lender to be used in the financial transactions;

(7) Any proposed marketing plan whereby the lender will sell any portion of the debt to secondary marketholders; and

(8) A disclosure by the lender whether any of its officers, directors or major stockholders or other parties having a major financial interest in the lender have a financial interest in the applicant, and whether any of the applicant's officers, directors, major stockholders or other parties having a major financial interest in the applicant have a financial interest in the lender.

§ 485.36 Evaluation of final applications.

(a) Upon receipt of final applications and all necesary supporting material, the Secretary will evaluate in detail the financial, economic, engineering, managerial, and social aspects of the project.

(b) After completion of this final evaluation, the Secretary will, for each project still being considered for support:

(1) Obtain the certification of the Administrator of the EPA and any appropriate State and areawide solid waste management agency, that the application is consistent with any applicable suggested guidelines published pursuant to section 1008(a) of the Resource Conservation and Recovery Act and any applicable State or regional solid waste management plan;

(2) Obtain the concurrence of the Secretary of the Treasury with respect to the timing, interest rate, and substantial terms of the loan guarantee. The Secretary of Treasury will ensure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of such guarantee will have the minimum possible impact on the capital markets of the United States, taking into account other Federal direct and indirect securities activities;

(3) Forward to the Chairman of the Committee on Science and Technology of the House of Representatives and to Chairman of the Committee on Energy and Natural Resources of the Senate a full and complete report on the proposed demonstration facility of the applicant seeking the guarantee; and

(4) Not finalize the loan guarantee prior to expiration of 90 calendar days (not including any day on which either House of Congress is not in session because of an adjournment if the adjournment is for more than three calandar days to a day certain) from the date on which such report on the proposed demonstration facility is received by such committees.

(c) Prior to issuing a loan guarantee, all appropriate site specific environmental analyses required by relevant laws or regulations shall be completed in accordance with § 485.11(a). However, if an environmental impact statement (EIS) is required, a guarantee may be entered into on the condition that disbursements under such guarantee may be made, prior to the completion of the EIS, for the purpose of assisting the borrower in providing information to DOE to aid in completion or review of the EIS, or for other purposes, only with the express written approval of the Offices of the Assistant Secretary for Environment and the General Counsel.

§ 485.37 Closing.

The major activities leading to the closing of a guarantee agreement include the following:

(a) When an application for a guarantee agreement has been approved by the Secretary, the Secretary will notify the applicant, and other parties, if appropriate, and provide them with a copy of the proposed guarantee agreement;

(b) To the extent necessary, conferences will be arranged by the Program Manager to discuss the terms and conditions contained in the guarantee agreement and other instruments relevant to the transaction;

(c) Upon agreement as to the terms and conditions of the guarantee agreement and other relevant instruments, a closing date agreeable to the parties will be set.

Subpart D—Guarantee and Project Administration

§ 485.40 Loan servicing.

(a) The guarantee agreement will provide that the lender or other party acceptable to the Secretary, hereafter called the servicer, service the guarantee in accordance with these regulations. In the event that the Federal Financing Bank is used or other circumstances occur where such course of action is considered by the Secretary to be appropriate, a separate servicer will be appointed.

(b) The servicer will exercise such care and diligence in the disbursement, servicing, and collection of the loan as would be exercised by a reasonable and prudent lender in dealing with a loan without a guarantee.

(c) The servicer will notify the Secretary in writing without delay:

(1) That the first disbursement is ready to be made, together with evidence from the borrower that the project has begun or is about to begin;

(2) Of the date and amount of disbursement for each subsequent disbursement under the guaranteed loan;

(3) Of any nonreceipt of payment within 15 days after the date specified for payment, together with evidence of appropriate notifications made by the lender to the borrower;

(4) Of any known failure by an intended source of capital to honor its commitment;

(5) Of any known failure by the borrower to comply with terms and conditions as set forth in the loan agreement or guarantee agreement;

(6) Of a belief that the borrower may not be able to meet any future scheduled payment of principal or interest;

(7) Of any significant changes from the original cash flow projections as evidenced from information and reports by the borrower; or

(8) When there is reason to believe that the borrower may not meet any of the material terms and conditions of the guarantee agreement.

(d) The servicer will be required to submit to the Secretary periodic reports on the status and condition of each project guaranteed under this regulation. The Secretary shall prescribe the frequency, format, and content of these reports. However, a report on each guaranteed loan entered into under this regulation will, as a mimimum, be submitted by the servicer to the Secretary annually on the anniversary date of closing. Reporting will be in accordance with requirements established by DOE and specified in the guarantee agreement. Reports will be furnished to the Secretary until that time when the guaranteed portion of the instrument is repaid.

(e) The servicer will take those actions necessary to perfect and maintain liens on assets which are set forth in the loan or guarantee agreement as collateral security for the guaranteed protion of the loan.

§ 485.41 Loan disbursements.

(a) Unless otherwise provided in the guarantee agreement, the borrower may not be provided with any funds under the guarantee agreement until the servicer:

(1) Has complied with the notification requirements set forth in § 485.40(b) (1) and (2), as appropriate, and has received written notice from the Secretary that the disbursement is approved; and

(2) Has received from the borrower satisfactory documentary evidence that loan drawdowns requested will be used to pay allowable project costs incurred or to be incurred by the borrower. The servicer or Secretary may require the borrower to provide documentation setting forth the purposes for which the drawdown is requested and an attestation that the disbursements will be used only for such purposes. Signature on the requesting document will be made by a person authorized to order the expenditure of the borrower's funds.

(b) The servicer may not release to the borrower drawdowns from any disbursement until the disbursement is approved by the Secretary; and

(c) The servicer may not, without the written approval of the Secretary, withhold from the borrower authorized disbursements, except as included in the provisions of the guarantee agreement.

§ 485.42 Financial assistance fund.

(a) As provided for in Section 19(n) of the Act there is established in the Treasury of the United States a separate fund, hereafter referred to as the Fund, to carry out the provisions of these regulations.

(b) The following will be deposited in the Fund:

(1) Appropriations to the Fund that are made available through legislation;

(2) Repayments made by borrowers in accordance with the terms and conditions in principal and interest assistance contracts;

(3) Guarantee fees; and

(4) Any other moneys, property, or assets derived from operations of this guarantee program, including foreclosure, repossession, or sale of collateral securities.

(c) Balances in the Fund will be used for:

(1) Payment to debtholders, in the event of default, of the principal balance and accrued interest on loan guarantee agreements;

(2) Payments under terms of a principal and interest contract;

(3) Payment to compensate or increased interest expenses associated with securities as provided for in § 485.13; and

(4) Any necessary administrative expenses incurred by the DOE, or other Federal agencies acting pursuant to the

direction of the DOE in carrying out the provisions of this regulation.

(d) If, at any time, the moneys available in the Fund are insufficient to pay principal and accrued interest in the event of default, or principal and interest assistance payments, the Secretary may issue to the Secretary of the Treasurey notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury in order to borrow sufficient funds for such purposes. This borrowing authority will be effective only to such extent or in such amounts as are specified in appropriation acts. Such authority will be without fiscal year limitation. Redemption of such notes or obligations will be made by the Secretary from appropriations or other moneys available under this regulation. Such notes or other obligations will bear interest at a rate determined by the Secretary of the Treasury, which may not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations will be treated as public debt transactions of the United States.

(e) The amounts in the Fund will be without fiscal year limitations and remain available until expended, with the exception that, if at any time, the Secretary determines that moneys in the Fund exceed the present and foreseeable requirements of the Fund, such amounts in the Fund that are not required to secure outstanding financial assistance obligations will be paid into the General Fund of the Treasury.

§ 485.43 Reduction or withdrawal of guarantee.

(a) The Secretary may reduce or withdraw the guarantee, as to amounts not yet disbursed or drawndown by the borrower, by written notice to the lender and the borrower if the Secretary determines that:

(1) Initiation of activity on the project has not occurred within the period of time set forth in the guarantee agreement. Within 60 days after the guarantee is withdrawn under this circumstance, the Secretary will remimburse to the lender the full amount of the guarantee if paid by the lender if the fee has not been passed to the borrower;

(2) The borrower has failed to acquire the required capital from intended or alternate sources of such capital, or has failed to comply with material terms and conditions set forth in the guarantee agreement. The Secretary will notify the borrower, the holder, and the servicer, as appropriate, if the guarantee is to be reduced. Drawdowns permitted to be made by the servicer after such notification is received may not be covered by a guarantee;

(3) The lender or servicer has failed to comply with any material term or condition as set forth in the guarantee agreement, and the Secretary has determined that such breach will increase the financial exposure of the Government. The Secretary will give notice of his finding that the lender or servicer has not complied with a material term to the borrower, the servicer, the lender, and the holder, as appropriate. Following notification of the Secretary's determination, the lender, or servicer, as appropriate, will be allowed reasonable time to correct the failure to comply. Actions to be taken, if the failure is not removed in a reasonable time, will be detailed in the guarantee agreement; or

(4) In the event that the Secretary determines that the project's economic success cannot be achieved in accordance with the requirements specified in the guarantee agreement, the guarantee may be reduced to amounts which have been provided by the lender as of the date of notice.

(b) A holder, in due course, of any part of a guaranteed loan will not have a guarantee reduced or withdrawn except for fraud or material misrepresentation on the holder's part.

§ 485.44 Assignment.

(a) Except as may be required by law, a holder may assign, to another, the guaranteed loan or portion thereof. Such assignment will be in accordance with the provisions of the guarantee agreement.

(b) The lender, except to the extent that specific limitations provided by law or in the guarantees do not permit, may provide other lenders with participating shares in the loan without the prior consent of the Secretary. The guarantee agreement will specify to what extent and in what manner the loan may be divided into shares. The lender will give advance written notice to the Secretary when participating shares are so provided. The notice will be in accordance with the manner and format prescribed in the guarantee agreement and provide the participant's business name, address, telephone number, and name of official to contact.

(c) The original servicer will continue to be responsible for and perform the servicing provisions of the guarantee agreement unless the Secretary approves a substitute servicer.

§ 485.45 Treatment of loan repayments.

When a lender holds a guaranteed and a nonguaranteed portion of a loan, payments of principal or interest made by the borrower, in accordance with the loan agreement, will be applied by the servicer to reduce the guaranteed and nonguaranteed portions of the loan on a basis that reflects the proportions that the guaranteed and nonguaranteed portions bear to the total loan.

§ 485.46 Project monitoring.

(a) The guarantee agreement or related documents will provide that appropriate DOE and other Federal representatives have access to the project site at all reasonable times in order to monitor the performance of the project. The lender, to the extent lawful and within its control, and the borrower will assure availability of information related to the demonstration facility as is necessary to permit the Secretary to determine technical progress, soundness of financial condition, management stability, compliance with environmental protection requirements, and other matters pertinent to the guarantee. The guarantee agreement or related documents will identify those items, or types, of information which the Secretary may not make available for public dissemination.

(b) The guarantee agreement or related documents will provide that the servicer and the borrower keep such records concerning the project as is necessary to facilitate an effective audit and performance evaluation of the project, and that the Secretary and the Comptroller General, or their duly authorized representatives, will have access, for the purpose of audit and examination, to any pertinent books, documents, papers, and records of the borrower and the lender. Such inspection may be made during the regular office hours of the borrower or the lender, or at any other time mutually convenient. The Comptroller General will, at six month intervals, make an audit of recipients of financial assistance under this program.

§ 485.47 Survival of guarantee agreement.

Except in accordance with § 485.43, "Reduction or withdrawal of guarantee," guarantee agreements issued under

these regulations will be binding upon the lender, the borrower, the Secretary, and other parties to the agreement, and upon their successors and assignees. No delay or failure of the Secretary in the exercise of any right or remedy, or partial exercise of any such right or remedy, will preclude any exercise of further rights or remedies, and no action taken or omitted by the Secretary will be considered a waiver of any such further right or remedy.

§ 485.48 Other Federal assistance.

Nothing in these regulations shall be interpreted to deny or limit the borrower's right to seek and obtain other Federal financial assistance (e.g., grants, cooperative agreements, or guaranteed loans) for a demonstration facility. For purposes of these regulations, other Federal financial assistance does not include revenue sharing funds or any tax benefits. However, the total amount of Federal financial assistance obtained for any facility may not exceed 75 percent of the total costs.

§ 485.49 Appeals.

The guarantee agreement will include a provision which specifies that any dispute concerning a question of fact arising after the guarantee agreement is executed will be decided in writing by the Secretary. The borrower or lender may request the Secretary to reconsider any such decision. If not satisfied with the Secretary's final decision, the borrower or lender, upon receipt for such written decision, may appeal the decision within 30 days, in writing, to the Chairman, Energy Board of Contract Appeals (EBCA), Department of Energy, Washington, D.C. 20585. EBCA, when functioning to resolve such a dispute under a loan guarantee, will proceed in the same general manner as when it presides over appeals involving contract disputes. The decision of EBCA with respect to such appeals shall be the final decision of the Secretary.

§485.50 [Reserved]

Subpart E—Default

§ 485.60 Default, demand, payment, and collateral security liquidation.

(a) In the event that the borrower has defaulted in the making of required payments of principal or interest on any portion of a loan guaranteed in accordance with these regulations, and such default has not been cured within the period of grace provided in the guarantee agreement, or other collateral security agreement, the servicer, or other nominee or trustee empowered to act for the holder, may make written demand upon the Secretary for payment pursuant to the provisions of the guarantee agreement.

(b) In the event that the borrower is in default as a result of a breach of one or more of the terms and conditions of the guarantee agreement, note, loan agreement, or other contractual obligation related to the transaction, other than the borrower's obligation to pay principal or interest, as provided in subparagraph (a) of this Section, the holder may not automatically be entitled to make demand for payment pursuant to the guarantee, unless the Secretary agrees in writing that such default has materially affected the rights of the parties, and finds that the holder should be entitled to receive payment of the outstanding guaranteed loan.

(c) No provision of these regulations shall be construed to preclude forbearance by the holder and the Secretary for the benefit of the borrower.

(d) Upon the making of demand for payment as provided in subparagraph (a) or (b) of this section, the holder will provide, in conjunction with such demand or immediately thereafter, at the request of the Secretary, such supporting documentation as may be reasonably required to justify such demand.

(e) Payment of the guaranteed loan will be made within 60 days after receipt by the Secretary of written demand for payment: Provided, the demand is in compliance with the terms and conditions of the guarantee agreement, applicable law, and these regulations. Interest will accrue to the holder, at the rate stated in the guarantee agreement, until the guaranteed portion of the loan has been fully paid by the Secretary.

(f) In the event of default and payment by the Secretary of the guaranteed portion of the loan to the holder, the holder will transfer and assign to the Secretary all rights held by the holder in the guaranteed portion of the loan. Such assignment will include all related collateral security and surety rights. Upon such payments, the Secretary will be subrogated to the rights of the recipient of the payment and will have superior rights in and to the property acquired from the recipient of the payment. Where there is a partial guarantee of the guaranteed loan, then the guarantee agreement will specify the terms and conditions for the handling of the collateral and the disposition of any recovery in the event of the default.

(g) Where the guarantee agreement so provides, the lender and the Secretary may jointly agree to a plan of liquidation of the collateral security pledged to secure the guaranteed loan, and thereafter the lender may undertake such liquidation and make application of the proceeds derived thereby in accordance with the terms and conditions of the guarantee agreement and the written plan of liquidation.

(h) Where payment of the guaranteed loan has been made and the lender is not to undertake a plan of liquidation, the Secretary, in accordance with the rights received through subrogation and acting through the U.S. Attorney General, will seek to foreclose on the collateral security and take such other legal action as necessary for the protection of the Government.

(i) If the Secretary is awarded title and rights to collateral security pursuant to a foreclosure proceedings, the Secretary may take action to complete, maintain, operate, or lease the project facilities, or take any other necessary action which the Secretary deems appropriate, in order that the original goals and objectives of the project will, to the extent possible, be realized.

(j) In addition to foreclosure and sale of collateral security pursuant thereto, the U.S. Attorney General will take appropriate action in accordance with rights contained in the guarantee agreement to recover costs incurred by the Government as a result of the default. Any recovery so received by the U.S. Attorney General on behalf of the Government will be applied in the following manner: first to the expenses incurred by the U.S. Attorney General and DOE in effecting such recovery; second to reimbursement of any amounts paid by DOE as a result of the loan guarantee; third to any amounts owed to DOE under related principal and interest assistance contracts; and fourth to any other lawful claims held by the Government on such proceeds. Any sums remaining after full payment of the above will be available for the benefit of other parties lawfully entitled to claim them.

(k) If a partial guarantee is involved, funds received by the lender as a result of liquidation actions will be applied as follows:

(1) First, to the payment of reasonable and customary fees and expenses incurred in the liquidation process, and as set forth in the liquidation plan; and

(2) Second, distributed among the legal owners of interests in the loan; pro-rated in accordance with their relative percentage ownership of the loan.

(l) No action taken by the lender in the liquidation of any assets pledged by

the borrower will affect the rights of any party, including the Secretary, having an interest in the loan to pursue, jointly or severally, to the extent provided in the loan agreement, legal action against the borrower, or other liable parties, for any deficiencies owing on the guaranteed balance after application of the proceeds received upon liquidation.

(m) In the event that the Secretary considers it necessary or desirable to protect or futher the interest of the United States in connection with the liquidation of collateral or recovery of deficiencies due under the loan, the Secretary will take such action as may be appropriate under the circumstances.

(n) Nothing in this section may preclude the Secretary from purchasing the holder's interest in the project upon liquidation.

§ 485.61 Preservation of collateral security.

(a) Upon default by the borrower, the holder of pledged collateral security will take those actions that the Secretary may reasonably require to provide for the care, preservation, protection, and maintenance of the collateral security so as to enable the United States to achieve maximum recovery upon default of the loan. The Secretary will reimburse the holder of collateral security for reasonable and appropriate expenses incurred in taking actions required by the Secretary.

(b) Except as provided in § 485.60, no party may waive or relinquish, without the consent of the Secretary, right to any collateral security for the loan to which the United States would be subrogated upon payments under the guarantee agreement.

(c) In the event of a default, the Secretary may enter into contracts as required to preserve the collateral security for the loan and to complete unfulfilled environmental requirements. The cost of such contracts may be charged to the fund.

[FR Doc. 79-22149 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

Urban Waste Technology Program

AGENCY: Department of Energy.

ACTION: Notice of Availability of Environmental Assessment and Negative Declaration.

SUMMARY: The Department of Energy (DOE) announces the availability of its environmental assessment (EA) for the Urban Waste Technology (UWT) Program. DOE has determined, based on the EA, that this program does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). Therefore, a negative declaration pursuant to 10 CFR 711.31 is hereby issued to notify the public that an environmental impact statement is not required for this action. Comments regarding the EA and DOE's negative declaration are invited.

DATE: Written comments are to be submitted no later than 4:30 p.m., September 4, 1979.

ADDRESS: Comments should be submitted to Ms. Margaret Sibley, Office of Conservation and Solar Applications, Mail Stop 2221C, Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Donald K. Walter, Department of Energy, Chief, Urban Waste and Municipal Systems Branch, Office of the Assistant Secretary for Conservation and Solar Applications, Room 2252C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585, (202) 376–1964.

Donald Silawsky, Department of Energy, Office of Environment, Room 4211, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585, (202) 376–4062.

Ms. Verlette Gatlin, Department of Energy, Freedom of Information Office, Room GA–152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–5969.

John Bell, Department of Energy, Office of General Counsel, Room 6G–087, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–6947.

SUPPLEMENTAL INFORMATION:

I. Background

In the Federal Nonnuclear Research and Development Act of 1974 ("Act"), Pub. L. 93–577, Congress established requirements for research, development and demonstration activities in the productive use of waste, including garbage and sewage. This Act was amended by the Department of Energy Act of 1978—Civilian Applications (Pub. L. 95–238), which in Title II added Section 19 (pertaining to loan guarantees) and in Title IV added Section 20 (pertaining to contracts, grants, cooperative agreements and price supports).

Under specified conditions, the Act requires DOE to establish an UWT research, development, and demonstration program; to support research, development and demonstration activities with grants, contracts, and cooperative agreements; and to further support demonstrations of municipal waste reprocessing systems with loan guarantees and price supports. The purposes of both titles II and IV of Pub. L. 95–238 are to insure adequate Federal support to foster a demonstration program of municipal waste reprocessing facilities and to gather information on the technological, economic, environmental and social costs, benefits and impacts of such demonstration facilities.

DOE's Urban Waste and Municipal Systems Branch of the Office of Buildings and Community Systems under the Assistant Secretary for Conservation and Solar Applications, has been assigned responsibility for this program. A Notice of Inquiry inviting the public to participate in the development of guidelines for the submittal of information concerning demonstrations supported by the DOE UWT program was published in the **Federal Register** on April 25, 1979 (44 FR 24298). Proposed regulations implementing the Loan Guarantees for this program are being published concurrently with this Notice of Availability. In accordance with its obligation under NEPA, DOE states in the proposed loan guarantee regulations that it has undertaken this environmental assessment of the Urban Waste Technology Program and will complete any additional required NEPA review prior to promulgation of the final rule. In addition, DOE is preparing an advance notice of proposed rulemaking to invite public participation in the preparation of draft regulations to implement the UWT price support program, per paragraph 20(b)(5) added to Pub. L. 93–577 by Title IV of Pub. L. 95–238. The environmental assessment announced in this notice covers all aspects of the UWT program.

The analyses in the EA conclude that the environmental impacts of the program will be insignificant on a programmatic level due to the relatively small estimated percentage of total national municipal waste which would be processed by facilities receiving support under the UWT program. However, there may be site specific impacts of concern based upon the technology and location of the demonstration. Therefore, the program and its supporting regulations emphasize the requirement that site specific environmental reports be prepared and that acceptable independent environmental assessments and environmental impact statements be completed, where necessary, prior to any construction of municipal waste reprocessing plants supported by DOE demonstration authorities.

Based on its evaluation of the EA, DOE has determined that the UWT Program would not be a "major Federal action significantly affecting the quality of the human environment," within the meaning of NEPA. Therefore, a negative declaration, pursuant to 10 CFR 711.31, is appropriate and no EIS is required. DOE will continue to assess developments in the environmental area and to update its environmental analyses from time to time as required. Moreover, a public comment period of 45 days is being made available for the purpose of maximizing public participation by any interested person.

II. Comment Procedure

Single copies of the program EA may be obtained from the Office of Buildings and Community Systems, Department of Energy, Room 2252C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585, (202) 376–1964. Copies of the EA are also available for public review in the DOE Freedom of Information Reading Room, listed above, between the hours of 8 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Interested parties may submit written comments with respect to the EA and the negative declaration to Ms. Margaret Sibley at the address given above. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Urban Waste Technology Program Environmental Assessment." All comments should be received by DOE by 4:30 p.m., September 4, 1979 in order to insure consideration. Any person submitting written comments should forward 5 copies, if possible, to DOE. All comments submitted are subject to DOE's regulations at 10 CFR 1004 (44 FR 1908, January 8, 1979) governing freedom of information requests.

Any information or data submitted in response to this notice considered by the person furnishing it to be confidential must be so identified and submitted in writing, in one copy only,

in accordance with procedures set forth at 10 CFR 1004.11. 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 information or data and to treat it according to its determination.

Issued in Washington, D.C. July 11, 1979.

Ms. Omi G. Walden,

Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-22150 Filed 7-17-79; 8:45 am]

BILLING CODE 6450-01-M

federal register

Wednesday
July 18, 1979

Part VI

Office of Management and Budget

Indirect Cost Rates, Audit, and Audit Followup at Educational Institutions

OFFICE OF MANAGEMENT AND BUDGET

Indirect Cost Rates, Audit, and Audit Followup at Educational Institutions

This notice offers interested parties an opportunity to comment on a proposed revision to Circular A–88, "Indirect cost rates, audit, and audit followup at educational institutions."

The proposed revision would continue the existing policy of relying on a single agency to act for all agencies in auditing educational institutions and in negotiating their indirect cost rates. It would add to those duties the responsibility to followup on audits by

—assuring correction of systems deficiencies,

—negotiating appropriate resolution on questioned costs.

Both these functions would be carried out in close coordination with other affected agencies.

The proposed revision is based in part on recommendations made by an interagency task force. Its purpose is to enhance accountability for Federal funds, and to ease the administrative burden on universities by assuring that they will not have to negotiate separately with several Federal agencies on the same matter. It strengthens the "cognizant agency" concept.

The Office of Management and Budget has, as yet, made no decision with respect to the proposed revision. The specific changes being considered are set forth below.

Comments should be submitted in duplicate to the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503. All comments should be received within on or before September 17, 1979.

Contact person: John J. Lordan (202) 395–6823.

Velma N. Baldwin,

Assistant to the Director for Administration.

To the Heads of Executive Departments and Establishments

Subject: Indirect cost rates, audit, and audit followup at educational institutions

1. *Purpose.* This Circular provides policies for (a) coordinating indirect cost rates, (b) auditing, (c) correcting systems deficiencies, and (d) resolving questioned costs. It applies to Federal grants, contracts, and other agreements with educational institutions (referred to here as "sponsored agreements"). The objectives are to promote a coordinated Federal approach, and to achieve a more effective use of staff resources.

2. *Supersession.* This Circular supersedes Federal Management Circular 73—6, dated December 19, 1973. FMC 73–6 is revised and reissued under its original designation of Circular No. A–88.

3. *Applicability.* This Circular applies to all Federal agencies that administer sponsored agreements with educational institutions subject to Circular No. A–21, "Cost principles for educational institutions."

4. *Policies.* a. *Negotiating indirect cost rates.* One Federal agency will negotiate the indirect cost rate or rates at a single institution. This agency is referred to here as the "cognizant agency." Negotiations will be carried out in accordance with relevant provisions of law and other applicable regulations or requirements.

b. *Negotiating special rates.* Institutional services involving the use of highly complex and specialized facilities may in some cases require the negotiation of special rates. In these situations also, the cognizant agency will do the negotiating for all the others at a single institution.

c. *Acceptance of indirect cost rates.* The negotiated rates will be accepted by all Federal agencies.

d. *Auditing.* The cognizant agency will do all the necessary auditing of direct and indirect costs at a single institution. Agencies that have special considerations affecting their sponsored agreements will inform the cognizant agency so that appropriate attention may be given to them in developing the audit program. Results of the audit will be furnished by the cognizant agency to the other agencies concerned.

e. *Correcting deficiences.* The cognizant agency will negotiate changes needed to correct systems deficiencies relating to accountability for sponsored agreements. The cognizant agency will advise other affected agencies before entering into negotiations and invite their participation.

f. *Resolving questioned costs.* The cognizant agency will conduct any necessary negotiations with the institution regarding amounts due the government as a result of costs questioned by audit. Prior to reaching final agreement with an institution, the cognizant agency will advise other agencies concerned.

g. *Agency assignments.* Federal agency assignments for carrying out the responsibilities in this section are set forth in the Attachment. Government-owned facilities at educational institutions are not included in the cognizance assignments. These will remain the responsibility of the contracting agencies. The listed assignments cover all of the functions in this section unless otherwise indicated. The Office of Management and Budget will coordinate changes in agency assignments.

h. *Reimbursement.* Reimbursement to cognizant agencies for work performed under this Circular may be made by reimbursement billing under section 601, Economy Act of 1932, 31 U.S.C. 686.

5. *Administering indirect cost policies.* a. *Procedure for establishing indirect cost rates.* The cognizant agency will arrange with the institution to provide copies of indirect cost proposals to all interested agencies. Agencies wanting such copies should notify the cognizant agency. Indirect cost rates will be established by one of the following methods:

(1) *Formal negotiation.* The cognizant agency will advise all agencies having sponsored agreements with an institution of its intention to negotiate. The cognizant agency will then arrange a negotiation conference with the institution. If an agency does not wish to be represented in these meetings, the cognizant agency will represent that agency.

(2) *Other than formal negotiation.* This will include cases where the institution and cognizant agency determine that agreement can be reached without a formal negotiation conference; for example, through correspondence or use of the simplified method described in Circular No. A–21.

b. *Special considerations affecting negotiation.* An agency which has reason to believe that special operating factors affecting its sponsored agreements necessiate separate rates will, prior to the time an agreement is negotiated, notify the cognizant agency and the institution so that appropriate attention may be devoted to those factors. Circular No. A–21 provides for separate indirect cost rates when it is determined that a separate rate differs significantly from a single rate, and that the volume of work to which such separate rate would apply is material in relation to other sponsored agreements at the institution.

c. *Formalizing determinations and agreements.* The cognizant agency will formalize all determinations or agreements reached with the institution and provide copies to other agencies having an interest.

d. *Disputes and disagreements with educational institutions.* Where the cognizant agency is unable to reach agreement with an institution on the

establishment of an acceptable indirect cost rate or rates, it will formalize its final position and notify the other agencies involved of its recommendations. The individual agencies will endeavor to coordinate the resolution of the disputed item with the cognizant agency. If agreement cannot be obtained through this procedure, the agencies may proceed with separate negotiations with the institution.

6. *Effective date.* The provisions of this Circular shall be effective

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7. *Inquiries.* Further information concerning this Circular may be obtained by contacting the Financial Management Branch, Budget Review Division, Office of Management and Budget, Washington, D.C. 20503, telephone (202) 395-6823.

James T. McIntyre, Jr.,

Director.

Cognizance Assignments

Alabama

Ala Agr and Mech Col—HEW
Ala Christian Col—HEW
Ala Col—HEW
Ala St Col—HEW
Alexander City St Jr Col—HEW
Auburn Univ—HEW
Birmingham-Southern Col—HEW
Calhoun St Tech Jr Col—HEW
Daniel Payne Col—HEW
Enterprise Jr Col—HEW
Florence St Col—HEW
Gadsden Tech Jr Col—HEW
George C Wallace Jr Col—HEW
Huntington Col—HEW
Jacksonville St Col—HEW
Jefferson Davis Col—HEW
Jefferson St Jr Col—HEW
Livingston St Col—HEW
Miles Col—HEW
Mobile St Jr Col—HEW
Northeast St Jr Col—HEW
Northwest Ala St Jr Col—HEW
Oakwood Col—HEW
Patrick Henry Jr Col—HEW
Sacred Heart Col—HEW
Southern Union St Jr Col—HEW
Spring Hill Col—HEW
St Bernard Col—HEW
Stillman Col—HEW
Talladega Col—HEW
Troy St Col—HEW
Tuskegee Inst—HEW
Univ of Ala—HEW
Univ of South Ala—HEW
Wenonah Jr Col—HEW
William Yancey St Jr Col—HEW

Alaska

Alaska Methodist Univ—HEW
Sheldon Jackson Jr Col—HEW
Univ of Alaska—DOD

Arizona

Amer Inst Foreign Trade—HEW
Ariz St Univ—HEW
Ariz Western Col—HEW
Cochise Col—HEW
Eastern Ariz Jr Col—HEW
Glendale Comm Col—HEW
Grand Canyon Col—HEW
Mesa Comm Col—HEW
Northern Ariz Univ—HEW
Phoenix Col—HEW
Prescott Col—HEW
Unvi of Ariz—HEW

Arkansas

Ark Agr and Mech Col—HEW
Ark Agr Mech & Normal Col—HEW
Ark Baptist Col—HEW
Ark Col—HEW
Ark Polytechnic Col—HEW
Ark St Col—HEW
Ark Art Center—HEW
Col of the Ozarks—HEW
Crowley's Ridge Col—HEW
Harding Col—HEW
Henderson St Tchrs Col—HEW
Hendrix Col—HEW
John Brown Univ—HEW
Little Rock Univ—HEW
Ouachita Baptist Univ—HEW
Philander Smith Col—HEW
Phillips Cnty Comm Jr Col—HEW
Shorter Jr Col—HEW
Southern Baptist Col—HEW
Southern St Col—HEW
State College of Ark—HEW
Univ of Ark—HEW
Westark Jr Col—HEW

California

Allan Hancock Col—HEW
Amer River Jr Col—HEW
Antelope Valley Col—HEW
Azusa Pacific Col—HEW
Bakersfield Col—HEW
Barstow Col—HEW
Bethany Bible Col—HEW
Biola Col—HEW
Cabrillo Col—HEW
Cal Col of Arts & Crafts—HEW
Cal Col of Medicine—HEW
Cal Inst of Tech—DOD
Cal Inst of the Arts—HEW
Cal Lutheran Col—HEW
Cal Podiatry Col—HEW
Cal St Colleges (except Fresno St Col)—Int.
Cerritos Col—HEW
Chabot Col—HEW
Chaffey Col—HEW
Chapman Col—HEW
Chico State Col—HEW
Citrus Jr Col—HEW
City Col of San Francisco—HEW
Claremont Graduate School—HEW
Claremont Mens Col—HEW
Coalinga Col—HEW
Col of Marin—HEW
Col of Notre Dame—HEW
Col of San Mateo—HEW
Col of the Desert—HEW
Col of the Holy Names—HEW
Col of the Redwoods—HEW
Col of the Sequoias—HEW
Col of the Siskiyous—HEW
Compton Col—HEW
Contra Costa Col—HEW
Ctr for Early Education—HEW
Cuesta Col—HEW
Cypress Jr Col—HEW
De Anza Col—HEW
Deep Springs Col—HEW
Diablo Valley Col—HEW
Dominican Col San Rafael—HEW
East Los Angeles Col—HEW
El Camino Col—HEW
Foothill Col—HEW
Fresno State Col—HEW
Fullerton Jr Col—HEW
Gavilan Col—HEW
Glendale Col—HEW
Golden Gate Col—HEW
Golden West Col—HEW
Grossmont Col—HEW
Hartnell Col—HEW
Harvey Mudd Col—HEW
Humboldt State Col—HEW
Humphreys Col—HEW
Immaculate Heart Col—HEW
Imperial Valley Col—HEW
La Sierra Col—HEW
La Verne Col—HEW
Laney Col—HEW
Lassen Col—HEW
Loma Linda Univ—HEW
Long Beach City Col—HEW
Los Angeles City Col—HEW
Los Angeles Col of Optom—HEW
Los Angeles Harbor Col—HEW
Los Angeles Pierce Col—HEW
Los Angeles Tr-Tech Col—HEW
Los Angeles Valley Col—HEW
Loyola Univ Los Angeles—HEW
Marymount Col—HEW
Menlo Col—HEW
Merced Col—HEW
Merritt Col—HEW
Mills Col—HEW
Mira Costa Col—HEW
Modesto Jr Col—HEW
Monterey Inst of For Stud—HEW
Monterey Peninsula Col—HEW
Mount San Antonio Jr Col—HEW
Mount San Jacinto Col—HEW
Mt St Marys Col—HEW
Napa Jr Col—HEW
Northrop Inst of Tech—HEW
Occidental Col—HEW
Orange Coast Col—HEW
Otis Art Inst LA Cnty—HEW
Pacific Col—HEW
Pacific Oaks Col—HEW
Pacific Union Col—HEW
Palo Verde Col—HEW
Palomar Jr Col—HEW
Pasadena City Col—HEW
Point Loma Col—HEW
Pepperdine Col—HEW
Peralta Jr Col Dist—HEW
Pitzer Col—HEW
Pomona Col—HEW
Porterville Col—HEW
Reedley Col—HEW
Rio Hondo Jr Col—HEW
Riverside City Col—HEW
S Cnty Joint Jr Col Dist—HEW
Sacramento City Col—HEW
Sacramento State Col—HEW
Salk Inst for Biol Stud—HEW
San Bernardino Vly Jr Col—HEW
San Diego City Col—HEW
San Diego Jr Col—HEW
San Diego Mesa Col—HEW
San Diego State Col—HEW
San Fernando Vly St Col—HEW

San Francisco Art Inst—HEW
San Francisco Col Women—HEW
San Francisco Consv Music—HEW
San Francisco State Col—HEW
San Joaquin Delta Col—HEW
San Jose City Col—HEW
San Jose State Col—HEW
Santa Barbara City Col—HEW
Santa Monica City Col—HEW
Santa Rosa Jr Col—HEW
Scripps Col—Int.
Shasta Col—HEW
Sierra Col—HEW
Simpson Bible Col—HEW
Solano Col—HEW
Sonoma St Col—HEW
Southern Cal Col—HEW
Southwestern Col—HEW
St Josephs Col of Orange—HEW
St Marys Col Cal—HEW
Stanford Univ—DOD
Stanislaus St Col—HEW
St Ctr Jr Col Dist—HEW
Taft Col—HEW
U S International Univ—HEW
Univ of California—HEW
Univ of Redlands—HEW
Univ of San Diego—HEW
Univ of San Francisco—HEW
Univ of Santa Clara—HEW
Univ of Southern Cal—HEW
Univ of the Pacific—HEW
Ventura Col—HEW
Victor Valley Col—HEW
West Valley Col—HEW
Westmont Col—HEW
Whittier Col—HEW
Yuba Col—HEW

Colorado

Adams State Col—HEW
Arapahoe Jr Col—HEW
Colorado Col—HEW
Colorado Sch of Mines—DOD
Colorado St Col—HEW
Colorado St Univ—HEW
Fort Lewis Col—HEW
Iliff Sch of Theology—HEW
Lamar Jr Col—HEW
Loretto Heights Col—HEW
Mesa Col—HEW
Metropolitan St Col—HEW
Northeastern Jr Col—HEW
Otero Jr Col—HEW
Rangely Col—HEW
Regis Col—HEW
Southern Colorado St Col—HEW
Temple Buell Col—HEW
Trinidad State Jr Col—HEW
U S Air Force Academy—HEW
Univ of Colorado—HEW
Univ of Denver—DOD
Western St Col Colorado—HEW
Yampa Valley Col—HEW

Connecticut

Albertus Magnus Col—HEW
Annhurst Col—HEW
Bridgeport Eng Inst—HEW
Central Conn St Col—HEW
Connecticut Col—HEW
Diocesan Sisters Col—HEW
Eastern Conn State Col—HEW
Fairfield Univ—HEW
Hartford Col for Women—HEW
Hartford Sem Found—HEW
Manchester Comm Col—HEW
Mitchell Col—HEW
New Haven Col—HEW
Northwestn Conn Comm Col—HEW
Norwalk Comm Col—HEW
Post Jr Col—HEW
Quimmipiac Col—HEW
Sacred Heart Univ—HEW
Southern Conn St Col—HEW
St Joseph Col—HEW
Trinity Col—HEW
Univ of Bridgeport—HEW
Univ of Connecticut—HEW
Univ of Hartford—HEW
Waterbury St Tech Inst—HEW
Wesleyan Univ—HEW
Western Conn St Col—HEW
Yale Univ—HEW

Delaware

Delaware St Col—HEW
Univ of Delaware—HEW
Wesley Col—HEW

District of Columbia

American Univ—HEW
Capitol Inst of Tech—HEW
Catholic Univ of Amer—HEW
Dist of Col Tchrs Col—HEW
Dunbarton Col Holy Cross—HEW
Gallaudet Col—HEW
George Washington Univ—HEW
Georgetown Univ—HEW
Howard Univ—HEW
Immaculate Col of Wash—HEW
Mt Vernon Jr Col—HEW
Southeastern Univ—HEW
Trinity Col—HEW
Wash Sch of Psychiatry—HEW
Nat'l Academy of Sciences—DOD

Florida

Alachua County Jr Col—HEW
Barry Col—HEW
Bethune-Cookman Col—HEW
Biscayne Col—HEW
Brevard Jr Col—HEW
Central Florida Jr Col—HEW
Chipola Jr Col—HEW
Daytona Beach Jr Col—HEW
Edison Jr Col—HEW
Edwards Waters Col—HEW
Enbry-Riddle Aero Inst—HEW
Florida Agr & Mech Univ—HEW
Florida Atlantic Univ—HEW
Florida Inst of Tech—HEW
Florida Jr Col—HEW
Florida Keys Jr Col—HEW
Florida Memorial Col—HEW
Florida Presbyterian Col—HEW
Florida Southern Col—HEW
Florida State Univ—HEW
Florida Technological Univ—HEW
Gulf Coast Jr Col—HEW
Indian River Jr Col—HEW
Jacksonville Univ—HEW
Jones Col—HEW
Jr Col of Broward County—HEW
Lake City Jr Col—HEW
Lake-Sumter Jr Col—HEW
Manatee Jr Col—HEW
Marymount Col—HEW
Miami-Dade Jr Col—HEW
New Col—HEW
North Florida Jr Col—HEW
Nova Univ of Adv Tech—HEW
Okaloosa-Walton Jr Col—HEW
Orlando Jr Col—HEW
Palm Beach Jr Col—HEW
Pensacola Jr Col—HEW
Polk Jr Col—HEW
Rollins Col—HEW
Santa Fe Jr Col—HEW
Seminole Jr Col—HEW
South Florida Jr Col—HEW
South-Eastern Bible Col—HEW
St Johns River Jr Col—HEW
St Joseph Col of Florida—HEW
St Leo Col—HEW
St Petersburg Jr Col—HEW
Stetson Univ—HEW
Tallahassee Jr Col—HEW
Univ of Florida—HEW
Univ of Miami—HEW
Univ of South Florida—HEW
Univ of Tampa—HEW
Univ of West Florida—HEW

Georgia

Abraham Baldwin Agr Col—HEW
Agnes Scott Col—HEW
Albany Jr Col—HEW
Albany State Col—HEW
Andrew Col—HEW
Armstrong St Col—HEW
Atlanta Sch of Art—HEW
Atlanta Univ—HEW
Augusta Col—HEW
Berry Col—HEW
Brewton-Parker Col—HEW
Brunswick Jr Col—HEW
Clark Col—HEW
Columbus Col—HEW
Dalton Jr Col—HEW
DeKalb Col—HEW
Emmanuel Col—HEW
Emory Univ—HEW
Fort Valley St Col—HEW
Gainesville Jr Col—HEW
Georgia Inst of Tech—DOD
Georgia Military Col—HEW
Georgia Southern Col—HEW
Georgia Southwestern Col—HEW
Georgia State Col—HEW
John Marshall Univ—HEW
Kennesaw Jr Col—HEW
LaGrange Col—HEW
Medical Col of Georgia—HEW
Mercer Univ—HEW
Middle Georgia Col—HEW
Morehouse Col—HEW
Morris Brown Col—HEW
Norman Col—HEW
North Georgia Col—HEW
Oglethorpe Col—HEW
Paine Col—HEW
Piedmont Col—HEW
Reinhardt Col—HEW
Savannah St Col—HEW
Shorter Col—HEW
South Georgia Col—HEW
Southern Col of Pharmacy—HEW
Spelman Col—HEW
Tift Col—HEW
Univ of Georgia—HEW
Valdosta St Col—HEW
Wesleyan Col—HEW
West Georgia Col—HEW
Womens Col of Georgia—HEW
Young Harris Col—HEW

Hawaii

Chaminade Col of Honolulu—HEW
Hawaii Loa College—HEW
Univ of Hawaii—DOD

Idaho

Bose Col—HEW
Col of Idaho—HEW
Col of Southern Idaho—HEW
Idaho St Univ—HEW
Lewis Clark Normal School—HEW
Magic Vly Christian Col—HEW
Northwest Nazarene Col—HEW
Univ of Idaho—HEW

Illinois

Augustana Col—HEW
Aurora Col—HEW
Barat Col of Sacred Heart—HEW
Belleville Jr Col—HEW
Black Hawk Col—HEW
Blackburn Col—HEW
Bloom Comm Col—HEW
Bradley Univ—HEW
Canton Comm Col—HEW
Central YMCA Comm Col—HEW
Chicago City Jr Col—HEW
Chicago Col of Osteopathy—HEW
Chicago Medical School—HEW
Chicago-Kent Col of Law—HEW
Col of St Francis—HEW
Columbia Col—HEW
Concordia Tchrs Col—HEW
Danville Jr Col—HEW
DePaul Univ—HEW
Eastern Illinois Univ—HEW
Elgin Comm Col—HEW
Elmhurst Col—HEW
Eureka Col—HEW
Freeport Comm Col—HEW
George Williams Col—HEW
Greenville Col—HEW
Hebrew Theol Col—HEW
Illinois Col—HEW
Illinois Col of Optometry—HEW
Illinois Col of Podiatry—HEW
Illinois Inst of Tech—HEW
Illinois St Col—HEW
Illinois St Univ—HEW
Illinois Wesleyan Univ—HEW
Joliet Jr Col—HEW
Judson Col—HEW
Kaskaskia Col—HEW
Kendall Col—HEW
Knox Col—HEW
LaSalle-Peru-Oglesby Jr Col—HEW
Lake Forest Col—HEW
Lewis Col—HEW
Lincoln Col—HEW
Loyola Univ—HEW
Lyons Township Jr Col—HEW
MacCormac Col—HEW
MacMurray Col—HEW
McKendree Col—HEW
Millikin Univ—HEW
Monmouth Col—HEW
Monticello Col—HEW
Mount Vernon Comm Col—HEW
Mundelein Col—HEW
Nat Col of Education—HEW
North Central Col—HEW
North Park Col—HEW
Northern Illinois Univ—HEW
Northwestern Univ—HEW
Olivet Nazarene Col—HEW
Olney Comm Col—HEW
Principia Col—HEW
Quincy Col—HEW
Rock Valley Col—HEW
Rockford Col—HEW
Roosevelt Univ—HEW
Rosary Col—HEW
Sauk Valley Col—HEW
Schools of the Art Inst—HEW
Shimer Col—HEW
Sothern Illinois Univ—HEW
Springfield Jr Col—HEW
St Dominic Col—HEW
St Procopius Col—HEW
St Xavier Col—HEW
Thornton Jr Col—HEW
Trinity Christian Col—HEW
Trinity Col—HEW
Triton Col—HEW
Univ of Chicago—HEW
Univ of Illinois—DOD
Wabash Valley Col—HEW
Western Illinois Univ—HEW
wheaton Col—HEW
William Rainey Harper Col—HEW

Indiana

Anderson Col—HEW
Ball State Univ—HEW
Bethel Col—HEW
Butler Univ—HEW
Concordia Senior Col—HEW
Depauw Univ—HEW
Earlham Col—HEW
Fort Wayne Art School—HEW
Franklin Col of Indiana—HEW
Goshen Col—HEW
Grace Theol Sem—HEW
Hanover Col—HEW
Herron School of Art—HEW
Huntington Col—HEW
Indiana Central Col—HEW
Indiana Inst of Tech—HEW
Indiana Northern Univ—HEW
Indiana St Univ—HEW
Indiana Univ—HEW
Manchester Col—HEW
Marian Col—HEW
Marion Col—HEW
Oakland City Col—HEW
Purdue Univ—HEW
Rose Polytechnic Inst—HEW
St Benedict Col—HEW
St Francis Col—HEW
St Joseph's Col—HEW
St Mary-of-the-Woods Col—HEW
St Marys Col—HEW
St Meinrad Sem—HEW
Taylor Univ—HEW
Tri-St Col—HEW
Univ of Evansville—HEW
Univ of Notre Dame—DOD
Valparaiso Univ—HEW
Vincennes Univ—HEW
Wabash Col—HEW

Iowa

Ares X Comm Col—HEW
Briar Cliff Col—HEW
Buena Vista Col—HEW
Burlington Comm Col—HEW
Central Col—HEW
Clarinda Comm Col—HEW
Clarke Col—HEW
Clinton Jr Col—HEW
Coe Col—HEW
Col of Osteopath Med Surg—HEW
Cornell Col—HEW
Creston Comm Col—HEW
Ctrville Comm Col—HEW
Divine Word Col—HEW
Dordt Col—HEW
Drake Univ—HEW
Eagle Grove Jr Col—HEW
Ellsworth Jr Col—HEW
Emmetsburg Comm Col—HEW
Estherville Jr Col—HEW
Graceland Col—HEW
Grand View Col—HEW
Grinnell Col—HEW
Iowa Central Comm Col—HEW
Iowa State Univ—HEW
Iowa Wesleyan Col—HEW
Keokuk Comm Col—HEW
Loras Col—HEW
Luther Col—HEW
Marshalltown Comm Col—HEW
Marycrest Col—HEW
Midwestern Col—HEW
Morningside Col—HEW
Mount Mercy Col—HEW
Muscatine Comm Col—HEW
North Iowa Area Comm Col—HEW
Northwestern Col—HEW
Ottumwa Heights Col—HEW
Palmer Jr Col—HEW
Parsons Col—HEW
Simpson Col—HEW
Sioux Empire Col—HEW
St Ambrose Col—HEW
Univ of Dubuque—HEW
Univ of Iowa—HEW
Univ of Northern Iowa—HEW
Upper Iowa Univ—HEW
Vennard Col—HEW
Waldorf Col—HEW
Wartburg Col—HEW
Webster City Jr Col—HEW
Westmar Col—HEW
William Penn Col—HEW

Kansas

Allen County Comm Jr Col—HEW
Baker Univ—HEW
Barton County Comm Jr Col—HEW
Bethany Col—HEW
Bethel Col—HEW
Central Col—HEW
Cloud County Comm Jr Col—HEW
Coffeyville Comm Jr Col—HEW
Col of Emporia—HEW
Colby Comm Jr Col—HEW
Cowley County Comm Jr Col—HEW
Dodge City Comm Jr Col—HEW
Donnelly Col—HEW
Fort Hays Kansas St Col—HEW
Fort Scott Comm Jr Col—HEW
Friends Bible Col—HEW
Friends Univ—HEW
Garden City Comm Jr Col—HEW
Hesston Col—HEW
Highland Comm Jr Col—HEW
Hutchinson Comm Jr Col—HEW
Independence Comm Jr Col—HEW
Kansas City Comm Jr Col—HEW
Kansas St Col—HEW
Kansas St Tchrs Col—HEW
Kansas State Univ—HEW
Kansas Wesleyan Univ—HEW
Labette Comm Jr Col—HEW

Marymount Col—HEW
McPherson Col—HEW
Miltonvale Wesleyan Col—HEW
Mount St Scholastica Col—HEW
Neosho County Comm Jr Col—HEW
Ottawa Univ—HEW
Pratt Comm Jr Col—HEW
Sacred Heart Col—HEW
Schilling Institute—HEW
Southwestern Col—HEW
St Benedicts Col—HEW
St Johns Col—HEW
St Mary Col—HEW
St Mary of the Plains Col—HEW
Sterling Col—HEW
Tabor Col—HEW
Univ of Kansas—HEW
Washburn Univ of Topeka—HEW
Wichita St Univ—HEW

Kentucky

Alice Lloyd Col—HEW
Asbury Col—HEW
Asbury Theol Sem—HEW
Bellarmine Col—HEW
Berea Col—HEW
Brescia Col—HEW
Campbellsville Col—HEW
Catherine Spalding Col—HEW
Centre Col of Kentucky—HEW
Cumberland Col—HEW
Eastern Kentucky Univ—HEW
Georgetown Col—HEW
Kentucky Southern Col—HEW
Kentucky State Col—HEW
Kentucky Wesleyan Col—HEW
Lees Jr Col—HEW
Midway Jr Col—HEW
Morehead State Univ—HEW
Murray St Univ—HEW
Nazareth Col of Kentucky—HEW
Paducah Jr Col—HEW
Pikeville Col—HEW
Southeastern Christian Col—HEW
St Catharine Jr Col—HEW
Transylvania Col—HEW
Union Col—HEW
Univ of Kentucky—HEW
Univ of Louisville—HEW
Ursuline Col—HEW
Villa Madonna Col—HEW
Western Kentucky Univ—HEW

Louisiana

Centenary Col—HEW
Delgado Col—HEW
Dillard Univ—HEW
Francis T Nicholls St Col—HEW
Grambling Col—HEW
Louisiana St Univ—HEW
Louisiana Col—HEW
Louisiana Poly Inst—HEW
Loyola Univ—HEW
McNeese St Col—HEW
Northeast Louisiana St Col—HEW
Northwestern St Col of La—HEW
Southeastern Louisiana Col—HEW
Southern Univ—HEW
St Marys Dominican Col—HEW
Tulane Univ—HEW
Univ of Southwestern La—HEW
Xavier Univ—HEW

Maine

Aroostoock St Col—HEW
Bates Col—HEW
Bowdoin Col—HEW
Colby Col—HEW
Farmington St Col—HEW
Fort Kent St Col—HEW
Gorham St Col—HEW
Husson Col—HEW
Maine Maritime Academy—HEW
Nasson Col—HEW
Northern Conserv of Music—HEW
Ricker Col—HEW
St Francis Col—HEW
St Joseph Col—HEW
Thomas Col—HEW
Univ of Maine—HEW
Washington St Col—HEW
Westbrook Jr Col—HEW

Maryland

Allegany Comm Col—HEW
Anne Arundel Comm Col—HEW
Baltimore Jr Col—HEW
Bowie St Col—HEW
Catonsville Comm Col—HEW
Charles County Comm Col—HEW
Col of Notre Dame of Md—HEW
Columbia Union Col—HEW
Coppin St Col—HEW
Essex Comm Col—HEW
Frederick Comm Col—HEW
Frostburg St Col—HEW
Goucher Col—HEW
Hagerstown Jr Col—HEW
Harford Jr Col—HEW
Hood Col—HEW
Johns Hopkins Univ—HEW
Loyola Col—HEW
Maryland Inst Col of Art—HEW
Montgomery Jr Col—HEW
Morgan St Col—HEW
Mt St Agnes Col—HEW
Mt St Marys Col—HEW
Ner Israel Rabbinical Col—HEW
Peabody Inst of Baltimore—HEW
Prince Georges Comm Col—HEW
Salisbury St Col—HEW
St Johns Col—HEW
St Joseph Col—HEW
St Marys Col of Maryland—HEW
Towson St Col—HEW
Univ of Maryland—HEW
Villa Julie Col—HEW
Washington Col—HEW
Western Maryland Col—HEW
Woodstock Col—HEW
Xaverian Col—HEW

Massachusetts

American Intl Col—HEW
Amherst Col—HEW
Anna Maria Col for Women—HEW
Aquinas School—HEW
Assumption Col—HEW
Atlantic Union Col—HEW
Augustinian Col Merrimack—HEW
Babson Inst of Bus Admin—HEW
Bay Path Jr Col—HEW
Becker Jr Col—HEW
Bentley Col of Acct & Fin—HEW
Berkshire Christian Col—HEW
Berkshire Comm Col—HEW
Boston Architectural Ctr—HEW
Boston Col—HEW
Boston Conserv of Music—HEW
Boston Univ—HEW
Bradford Jr Col—HEW
Brandeis Univ—HEW
Cambridge School of Bus—HEW
Cape Cod Comm Col—HEW
Cardinal Cushing Col—HEW
Clark Univ—HEW
Col of Our Lady of Elms—HEW
Col of the Holy Cross—HEW
Curry Col—HEW
Dean Jr Col—HEW
Eastern Nazarene Col—HEW
Emerson Col—HEW
Emmanuel Col—DOD
Charles Stark Draper Lab—DOD
Endicott Jr Col—HEW
Fisher Jr Col—HEW
Forsyth Sch Dent Hygnsts—HEW
Garland Jr Col—HEW
Gordon Col—HEW
Greenfield Comm Col—HEW
Hampshire Col—HEW
Harvard Univ—HEW
Hebrew Tchrs Col—HEW
Holyoke Comm Col—HEW
Lasell Jr Col—HEW
Leicester Jr Col—HEW
Lesley Col—HEW
Lowell Technological Inst—HEW
Mass Bay Comm Col—HEW
Mass Col of Art—HEW
Mass Col of Optometry—HEW
Mass Col of Pharmacy—HEW
Mass Inst of Tech—DOD
Mt Holyoke Col—HEW
Mount Ida Jr Col—HEW
Mt Wachusett Comm Col—HEW
New Engl Conserv of Music—HEW
Newton Col Sacred Heart—HEW
Newton Jr Col—HEW
Nichols Col of Bus Admin—HEW
North Shore Comm Col—HEW
Northampton Commercial Col—HEW
Northeastern Univ—HEW
Northern Essex Comm Col—HEW
Pine Manor Jr Col—HEW
Quincy Jr Col—HEW
Quinsigamond Comm Col—HEW
Regis Col—DOD
Simmons Col—HEW
Smith Col—HEW
Southeastern Comm Col—HEW
South Shore Comm Col—HEW
Southeast Mass Tech Inst—HEW
Springfield Col—HEW
State Col at Boston—HEW
State Col at Bridgewater—HEW
State Col at Fitchburg—HEW
State Col at Framingham—HEW
State Col at Lowell—HEW
State Col at North Adams—HEW
State Col at Salem—HEW
State Col at Westfield—HEW
State Col at Worcester—HEW
Stevens Business Col—HEW
Stonehill Col—HEW
Suffolk Univ—HEW
Tufts Univ—HEW
Univ of Massachusetts—HEW
Wellesley Col—HEW
Wentworth Inst—DOD
Western New England Col—HEW
Wheaton Col—HEW
Wheelock Col—HEW
Williams Col—HEW
Woods Hole Ocean Inst—HEW
Worcester Jr Col—HEW

Worcester Polytech Inst—HEW

Michigan

Adrian Col—HEW
Albion Col—HEW
Alma Col—HEW
Alpena Comm Col—HEW
Andrews Univ—HEW
Aquinas Col—HEW
Bay de Noc Comm Col—HEW
Calvin Col—HEW
Central Mich Univ—HEW
Concordia Lutheran Jr Col—HEW
Davenport Col of Bus—HEW
De Lima Jr Col—HEW
Delta Col—HEW
Detroit Inst of Tech—HEW
Eastern Michigan Univ—HEW
Ferris St Col—HEW
Flint Comm Jr Col—HEW
Glen Oaks Comm Col—HEW
Gogebic Comm Col—HEW
Grand Rapids Bapt Col—HEW
Grand Rapids Jr Col—HEW
Grand Valley St Col—HEW
Henry Ford Comm Col—HEW
Highland Park Comm Col—HEW
Hope Col—HEW
Jackson Comm Col—HEW
Kalamazoo Col—HEW
Kellogg Comm Col—HEW
Lake Michigan Col—HEW
Lansing Comm Col—HEW
Lawrence Inst of Tech—HEW
Lewis Business Col—HEW
Mackinac Col—HEW
Macomb County Comm Col—HEW
Madonna Col—HEW
Marygrove Col—HEW
Mercy Col of Detroit—HEW
Merrill-Palmer Inst—HEW
Mich Tech Univ—HEW
Michigan Christian Jr Col—HEW
Michigan Lutheran Col—HEW
Michigan State Univ—HEW
Monroe County Comm Col—HEW
Montcalm County Col—HEW
Muskegon County Comm Col—HEW
Nazareth Col—HEW
North Central Mich Col—HEW
Northern Michigan Univ—HEW
Northwestern Mich Col—HEW
Oakland Comm Col—HEW
Oakland Univ—HEW
Olivet Col—HEW
Owosso Col—HEW
Port Huron Jr Col—HEW
Reformed Bible Inst—HEW
Sacred Heart Sem—HEW
Saginaw Valley Col—HEW
Schoolcraft Col—HEW
Siena Heights Col—HEW
Southwestern Mich Col—HEW
Spring Arbor Col—HEW
Suomi Col—HEW
Univ of Detroit—HEW
Univ of Michigan—HEW
Washtenaw Comm Col—HEW
Wayne State Univ—HEW
Western Mich Univ—HEW

Minnesota

Anoka-Ramsey St Jr Col—HEW
Augsburg Col—HEW
Austin Jr Col—HEW
Bemidji St Col—HEW
Bethany Lutheran Col—HEW
Bethel Col and Sem—HEW
Brainerd Jr Col—HEW
Carleton Col—HEW
Col of St Benedict—HEW
Col of St Catherine—HEW
Col of St Scholastica—HEW
Col of St Teresa—HEW
Col of St Thomas—HEW
Concordia Col—HEW
Concordia Col—HEW
Corbett Col—HEW
Crosier Sem—HEW
Ely Jr Col—HEW
Fergus Falls St Jr Col—HEW
Gustavus Adophus Col—HEW
Hamline Univ—HEW
Hibbing Jr Col—HEW
Itasca Jr Col—HEW
Lea College—HEW
Macalester Col—HEW
Mankato St Col—HEW
Mesabi St Jr Col—HEW
Metropolitan St Jr Col—HEW
Minneapolis Sch of Art—HEW
Moorhead St Col—HEW
North Hennepin St Jr Col—HEW
Rochester Jr Col—HEW
Southwest St Col—HEW
St Cloud St Col—HEW
St Johns Univ—HEW
St Marys Col—HEW
St Marys Jr Col—HEW
St Olaf Col—HEW
Univ of Minnesota—HEW
Willmar Comm Col—HEW
Winona St Col—HEW
Worthington Jr Col—HEW

Mississippi

Alcorn Agr and Mech Col—HEW
Belhaven Col—HEW
Blue Mountain Col—HEW
Coahoma Jr Col—HEW
Copiah-Lincoln Jr Col—HEW
Delta St Col—HEW
East Central Jr Col—HEW
East Miss Jr Col—HEW
Hinds Jr Col—HEW
Holmes Jr Col—HEW
Itawamba Jr Col—HEW
Jackson County Jr Col—HEW
Jackson St Col—HEW
Jefferson Davis Jr Col—HEW
Jones County Jr Col—HEW
Mary Holmes Jr Col—HEW
Meridian Jr Col—HEW
Millsaps Col—HEW
Miss Delta Jr Col—HEW
Miss Indus Col—HEW
Miss St Col For Women—HEW
Miss St Univ—HEW
Miss Valley St Col—HEW
Northeast Miss Jr Col—HEW
Northwest Miss Jr Col—HEW
Pearl River Jr Col—HEW
Perkinston Jr Col—HEW
Prentiss Norm & Ind Inst—HEW
Rust Col—HEW
Saints Jr Col—HEW
Southwest Miss Jr Col—HEW
T J Harris Jr Col—HEW
Tougaloo Col—HEW
Univ of Miss—HEW
Univ of Southern Miss—HEW
Utica Jr Col—HEW
William Carey Col—HEW
Wood Jr Col—HEW

Missouri

Avila Col—HEW
Central Bible Inst—HEW
Central Methodist Col—HEW
Central Missouri St Col—HEW
Christian Col—HEW
Concordia Seminary—HEW
Cottey Col—HEW
Crowder Col—HEW
Culver-Stockton Col—HEW
Drury Col—HEW
Evangel Col—HEW
Fontbonne Col—HEW
Hannibal-La Grange Col—HEW
Harris Tchrs Col—HEW
Immaculate Conception Sem—HEW
Jefferson County Col Dist—HEW
Junior Col Dist St Louis—HEW
Kansas City Art Inst—HEW
Kansas City Col of Osteop—HEW
Kemper Military Sch & Col—HEW
Kirksville Col of Osteop—HEW
Lincoln Univ—HEW
Lindenwood Col for Women—HEW
Maryville Col Sac Heart—HEW
Mercy Jr Col—HEW
Metropolitan Jr Col—HEW
Mineral Area Jr Col Dist—HEW
Missouri Southern Col—HEW
Missouri Valley Col—HEW
Missouri Western Jr Col—HEW
Northeast Mo St Tchrs Col—HEW
Northwest Missouri St Col—HEW
Notre Dame Col—HEW
Park Col—HEW
Rockhurst Col—HEW
School of the Ozarks—HEW
Southeast Missouri St Col—HEW
Southwest Baptist Col—HEW
Southwest Missouri St Col—HEW
St Louis Col of Pharmacy—HEW
St Louis Univ—HEW
St Marys Col of O'Fallon—HEW
St Pauls Col—HEW
Stephens Col—HEW
Tarkio Col—HEW
Three Rivers Jr Col—HEW
Trenton Jr Col—HEW
Univ of Missouri Columbia—HEW
Univ of Missouri Ctrl Sys—HEW
Univ of Missouri Kansas City—HEW
Univ of Missouri Rolla—HEW
Univ of Missouri St Louis—HEW
Washington Univ—HEW
Webster Col—HEW
Westminster Col—HEW
William Jewell Col—HEW
William Woods Col—HEW

Montana

Carrol Col—HEW
Col of Great Falls—HEW
Custer County Jr Col—HEW
Dawson County Jr Col—HEW
Eastern Montana Col—HEW
Montana Col Mineral Sci—HEW
Montana St Univ—HEW
Northern Montana Col—HEW
Rocky Mountain Col—HEW
Univ of Montana—HEW

Western Montana Col—HEW

Nebraska

Chadron St Col—HEW
Col of St Mary—HEW
Concordia Tchrs Col—HEW
Creighton Univ—HEW
Dana Col—HEW
Doane Col—HEW
Duchesne Col Sacred Heart—HEW
Fairbury Jr Col—HEW
Hastings Col—HEW
John F Kennedy Col—HEW
Kearney St Col—HEW
McCook Jr Col—HEW
Midland Lutheran Col—HEW
Municipal Univ of Omaha—HEW
Nebr Brd Educ St Nrml Col—HEW
Nebraska Wesleyan Univ—HEW
North Platte Jr Col—HEW
Pershing Col—HEW
Peru St Col—HEW
Scottsbluff Col—HEW
Union Col—HEW
Univ of Nebraska—HEW
Wayne St Col—HEW
York Col—HEW

Nevada

Univ of Nevada—HEW

New Hampshire

Belknap Col—HEW
Colby Jr Col—HEW
Dartmouth Col—HEW
Franconia Col—HEW
Franklin Pierce Col—HEW
Gunstock Jr Col—HEW
Mt St Mary Col—HEW
Nathaniel Hawthorne Col—HEW
New England Col—HEW
New Hampshire Tech Inst—HEW
Notre Dame Col—HEW
Rivier Col—HEW
St Anselm's Col—HEW
Univ of New Hampshire—HEW

New Jersey

Alphonsus Col—HEW
Archangel Col—HEW
Assumption Col Sisters—HEW
Atlantic Comm Col—HEW
Beth Medrash Gevoha Amer—HEW
Bloomfield Col—HEW
Caldwell Col for Woman—HEW
Camden Cnty Col—HEW
Centenary Col for Woman—HEW
Col of St Elizabeth—HEW
Cumberland Cnty Col—HEW
Drew Univ—HEW
Fairleigh Dickinson Univ—HEW
Georgian Court Col—HEW
Glassboro St Col—HEW
Immac Conception Jr Col—HEW
Inst for Advanced Study—DOD
Jersey City St Col—HEW
Mercer County Comm Col—HEW
Middlesex County Col—HEW
Monmouth Col—HEW
Montclair St Col—HEW
Mt St Mary Col—HEW
N J Col of Med and Dent—HEW
New Brunswick Theol Sem—HEW
Newark Col of Eng—HEW
Newark St Col—HEW
Northeastern Col Bible Inst—HEW
Ocean County Col—HEW
Paterson St Col—HEW
Princeton Theol Sem—HEW
Princeton Univ—DOE
Rider Col—HEW
Rutgers St Univ—HEW
Seton Hall Univ—HEW
St Peters Col—HEW
Stevens Inst of Tech—DOD
Tombrock Col—HEW
Trenton Jr Col—HEW
Trenton St Col—HEW
Union Jr Col—HEW
Upsala Col—HEW
Westminster Choir Col—HEW

New Mexico

Col of Santa Fe—HEW
Eastern New Mexico Univ—HEW
New Mexico Inst Mining & Tech—DOD
New Mexico Highlands Univ—HEW
New Mexico Jr Col—HEW
New Mexico St Univ—DOD
Roswell Comm Col—HEW
Univ of Albuquerque—HEW
Univ of New Mexico—DOD
Western New Mexico Univ—HEW

New York

Adelphi Univ—HEW
Adirondack Comm Col—HEW
Agr & Tech Col Alfred—HEW
Agr & Tech Col Canton—HEW
Agr & Tech Col Cobleskill—HEW
Agr & Tech Col Delhi—HEW
Agr & Tech Col Farmingdale—HEW
Agr & Tech Col Morrisville—HEW
Albany Col of Pharmacy—HEW
Albany Medical Col—HEW
Alfred Univ—HEW
Auburn Comm Col—HEW
Bank Street Col of Educ—HEW
Bard Col—HEW
Barnard Col—HEW
Bennett Col—HEW
Brentwood Col—HEW
Briarcliff Col—HEW
Brooklyn Law School—HEW
Broome Tech Comm Col—HEW
Canisius Col—HEW
Cazenovia Col—HEW
Clarkson Col of Tech—HEW
Col at Brockport—HEW
Col at Buffalo—HEW
Col at Cortland—HEW
Col at Fredonia—HEW
Col at Geneseo—HEW
Col at New Paltz—HEW
Col at Oneonta—HEW
Col at Oswego—HEW
Col at Plattsburgh—HEW
Col at Potsdam—HEW
Col Cntr of Finger Lakes—HEW
Col of Forestry Syracuse—HEW
Col of Insurance—HEW
Col of Mt St Vincent—HEW
Col of New Rochelle—HEW
Col of Pharmaceutical Sci—HEW
Col of St Rose—HEW
Colgate Univ—HEW
Columbia Univ—DOD
Concordia Jr Col—HEW
Cooper Union—HEW
Cornell Univ—DOD
Corning Comm Col—HEW
CUNY Manhattan Comm Col—HEW
CUNY Bronx Comm Col—HEW
CUNY Brooklyn Col—HEW
CUNY Central System—HEW
CUNY City Col—HEW
CUNY Hunter Col—HEW
CUNY John Jay Col—HEW
CUNY Kingsboro Comm Col—HEW
CUNY N Y City Comm Col—HEW
CUNY Queens Col—HEW
CUNY Queensboro Comm Col—HEW
CUNY Richmond Col—HEW
CUNY Staten Is Comm Col—HEW
D'Youville Col—HEW
Dominican Col of Blauvelt—HEW
Downstate Medical Ctr—HEW
Dutchess Comm Col—HEW
Elizabeth Seton Col—HEW
Elmira Col—HEW
Epiphany Apostolic Col—HEW
Erie County Tech Inst—HEW
Fashion Inst of Tech—HEW
Finch Col—HEW
Fordham Univ—HEW
Fulton-Montgomery Comm Col—HEW
Good Counsel Col—HEW
Hamilton Col—HEW
Hartwick Col—HEW
Hobart and Wm Smith Cols—HEW
Hofstra Univ—HEW
Houghton Col—HEW
Hudson Valley Comm Col—HEW
Immaculata Col—HEW
Iona Col—HEW
Ithaca Col—HEW
Jamestown Comm Col—HEW
Jefferson Comm Col—HEW
Jewish Theol Sem of Amer—HEW
Juilliard School of Music—HEW
Keuka Col—HEW
Kings Col—HEW
Kirkland Col—HEW
Ladycliff Col—HEW
LeMoyne Col—HEW
Lewis Col of Podiatry—HEW
Long Island Univ—HEW
Manhattan Col—HEW
Manhattan Sch of Music—HEW
Manhattanville Col Sac Ht—HEW
Mannes Col of Music—HEW
Maria Col of Albany—HEW
Maria Regina Col—HEW
Marist Col—HEW
Maritime Col—HEW
Marymount Col—HEW
Marymount Manhattan Col—HEW
Mater Dei Col—HEW
Mercy Col—HEW
Mills Col of Educ—HEW
Mohawk Valley Comm Col—HEW
Molloy Catholic Col Women—HEW
Monroe Comm Col—HEW
Mt St Joseph Col—HEW
Mt St Mary Col—HEW
Nassau Comm Col—HEW
Nazareth Col of Rochester—HEW
New School for Social Res—HEW
New York Col of Music—HEW
New York Inst of Tech—HEW
New York Law School—HEW
New York Medical Col—HEW
New York Univ—HEW
Niagara County Comm Col—HEW
Niagara Univ—HEW
Notre Dame Col of Staten Is—HEW

Onondaga Comm Col—HEW
Orange County Comm Col—HEW
Pace Col—HEW
Parsons School of Design—HEW
Paul Smiths Col Arts Sci—HEW
Polytechnic Inst of Bklyn—DOD
Pratt Inst—HEW
Queen of the Apostels Col—HEW
Rabbi Joseph Rabbincl Col—HEW
Rabbinical Sem of America—HEW
Rabbinical Acad M R Berlin—HEW
Rabbinical Col Chsan Sofer—HEW
RCA Inst—HEW
Rensselaer Polytech Inst—HEW
Roberts Wesleyan Col—HEW
Rochester Inst of Tech—HEW
Rockefeller Univ—HEW
Rockland Comm Col—HEW
Rosary Hill Col—HEW
Russell Sage Col—HEW
Sancta Maria Jr Col—HEW
Sarah Lawrence Col—HEW
Skidmore Col—HEW
St Bernardine Siena Col—HEW
St Bonaventure Univ—HEW
St Clare Col—HEW
St Francis Col—HEW
St John Fisher Col—HEW
St Johns Univ—HEW
St Josephs Col for Women—HEW
St Lawrence Univ—HEW
St Thomas Aquinas Col—HEW
St Vladimirs Theol Sem—HEW
State Univ at Albany—HEW
State Univ at Binghamton—HEW
State Univ at Buffalo—HEW
State Univ at Stony Brook—HEW
Suffolk County Comm Col—HEW
Sullivan County Comm Col—HEW
Syracuse Univ—DOD
Teachers Col—HEW
Ulster County Comm Col—HEW
Union Col—HEW
Union Col & Univ Ctrl Sys—HEW
Univ of Rochester—DOD
Upstate Medical Ctr—HEW
Vassar Col—HEW
Villa Maria Col Buffalo—HEW
Voorhees Tech Inst—HEW
Wadhams Hall—HEW
Wagner Col—HEW
Webb Inst of Naval Arch—HEW
Wells Col—HEW
Westchester Comm Col—HEW
Yeshiva Univ—HEW

North Carolina

A & T St Univ of N C—HEW
Appalachian St Univ—HEW
Asheville-Biltmore Col—HEW
Atlantic Christian Col—HEW
Barber-Scotia Col—HEW
Belmont Abbey Col—HEW
Bennett Col—HEW
Brevard Col—HEW
Campbell Col—HEW
Catawba Col—HEW
Central Piedmont Comm Col—HEW
Chowan Col—HEW
Col of The Albemarle—HEW
Davidson Col—HEW
Davidson County Comm Col—HEW
Duke Univ—HEW
East Carolina Univ—HEW
Elizabeth City St Col—HEW
Elon Col—HEW
Fayetteville St Col—HEW
Fayetteville Tech Inst—HEW
Greensboro Col—HEW
Guilford Col—HEW
High Point Col—HEW
Isothermal Comm Col—HEW
Johnson C Smith Univ—HEW
Kittrell Col—HEW
Lees-McRae Col—HEW
Lenoir County Comm Col—HEW
Lenoir-Rhyne Col—HEW
Livingstone Col—HEW
Louisburg Col—HEW
Mars Hill Col—HEW
Meredith Col—HEW
Methodist Col—HEW
Mitchell Col—HEW
Montreat-Anderson Col—HEW
Mt Olive Jr Col—HEW
N C Col Durham—HEW
N C School of Arts—HEW
N C St Univ at Raleigh—HEW
N C Wesleyan Col—HEW
Pembroke St Col—HEW
Pfeiffer Col—HEW
Pitt Technical Inst—HEW
Queens Col—HEW
Rockingham Comm Col—HEW
Sacred Heart Jr Col—HEW
Salem Col—HEW
Sandhills Comm Col—HEW
Shaw Univ—HEW
Southeastern Comm Col—HEW
Southern Pilgrim Col—HEW
St Andrews Presby Col—HEW
St Augustines Col—HEW
St Marys Jr Col—HEW
Surry Comm Col—HEW
Univ of N C at Charlotte—HEW
Univ of N C at Greensboro—HEW
Univ of N C Central Sys—HEW
Univ of N C Chapel Hill—HEW
Wake Forest Univ—HEW
Warren Wilson Col—HEW
Western Carolina Col—HEW
Western Piedmont Comm Col—HEW
Wilkes Comm Col—HEW
Wilmington Col—HEW
Wingate Col—HEW
Winston-Salem St Col—HEW

North Dakota

Assumption Col—HEW
Bismarck Jr Col—HEW
Dickinson St Col—HEW
Jamestown Col—HEW
Lake Region Jr Col—HEW
Mary Col—HEW
Mayville St Col—HEW
Minot St Col—HEW
North Dakota Sch Forestry—HEW
North Dakota St Sch Sci—HEW
North Dakota St Univ—HEW
Univ of North Dakota—HEW
Valley City St Col—HEW

Ohio

Antioch Col—HEW
Ashland Col—HEW
Baldwin-Wallace Col—HEW
Bluffton Col—HEW
Bowling Green St Univ—HEW
Capital Univ—HEW
Case-Western Reserve Univ—HEW
Central St Univ—HEW
Cleveland Inst of Music—HEW
Cleveland St Univ—HEW
Col Mt St Joseph-on-Ohio—HEW
Col of Steubenville—HEW
Col of Wooster—HEW
Col St Mary of Springs—HEW
Columbus Col Art & Design—HEW
Cuyahoga Comm Col—HEW
Defiance Col—HEW
Denison Univ—HEW
Dyke Col—HEW
Findlay Col—HEW
Franklin Univ—HEW
Heidelberg Col—HEW
Hiram Col—HEW
John Carroll Univ—HEW
Kent St Univ—HEW
Kenyon Col—HEW
Lake Erie Col—HEW
Lorain County Comm Col—HEW
Malone Col—HEW
Marietta Col—HEW
Mary Manse Col—HEW
Miami Univ—HEW
Mt Union Col—HEW
Muskingum Col—HEW
Notre Dame Col—HEW
Oberlin Col—HEW
Ohio Col of Applied Sci—HEW
Ohio Col of Podiatry—HEW
Ohio Northern Univ—HEW
Ohio St Univ—HEW
Ohio Tech Inst—HEW
Ohio Univ—HEW
Ohio Wesleyan Univ—HEW
Otterbein Col—HEW
Our Lady Cincinnati Col—HEW
Rabbinical Col of Telshe—HEW
Rio Grande Col—HEW
Salmon P Chase Col of Law—HEW
Sch of Dayton Art Inst—HEW
Sinclair Col—HEW
St John Col of Cleveland—HEW
Tiffin Univ—HEW
Univ of Akron—HEW
Univ of Cincinnati—HEW
Univ of Dayton—DOD
Univ of Toledo—HEW
Urbana Univ—HEW
Ursuline Col for Women—HEW
Walsh Col—HEW
Western Col for Women—HEW
Wilberforce Univ—HEW
Wilmington Col—HEW
Wittenberg Univ—HEW
Xavier Univ—HEW
Youngstown St Univ—HEW

Oklahoma

Altus Jr Col—HEW
Bacone Col—HEW
Bethany-Nazarene Col—HEW
Cameron St Agr Col—HEW
Central Pilgrim Col—HEW
Central St Col—HEW
Connors St Agr Col—HEW
East Central St Col—HEW
Eastn Okla Agr & Mech Col—HEW
El Reno Col—HEW
Langston Univ—HEW
Murray St Agr Col—HEW
Northeastern Okla A&M Col—HEW
Northeastern St Col—HEW
Northern Oklahoma Col—HEW

Northwestern St Col—HEW
Okla Col of Liberal Arts—HEW
Oklahoma Baptist Univ—HEW
Oklahoma Christian Col—HEW
Oklahoma City Univ—HEW
Oklahoma Military Academy—HEW
Oklahoma St Univ—HEW
Oral Roberts Univ—HEW
Panhandle Agr & Mech Col—HEW
Phillips Univ—HEW
Poteau Comm Col—HEW
Sayre Jr Col—HEW
Southeastern St Col—HEW
Southwestern Col—HEW
Southwestern St Col—HEW
St Gregorys Col—HEW
Univ of Oklahoma—HEW
Univ of Tulsa—HEW

Oregon

Blue Mountain Comm Col—HEW
Cascade Col—HEW
Central Oregon Comm Col—HEW
Clackamus Comm Col—HEW
Clatsop Comm Col—HEW
Columbia Christian Col—HEW
Concordia Col—HEW
Eastern Oregon Col—HEW
George Fox Col—HEW
Lane Comm Col—HEW
Lewis and Clark Col—HEW
Linfield Col—HEW
Marylhurst Col—HEW
Mt Angel Col—HEW
Mt Hood Comm Col—HEW
Multnomah Col—HEW
Museum Art School—HEW
Oregon Col of Education—HEW
Oregon St Univ—HEW
Oregon Tech Inst—HEW
Pacific Univ—HEW
Portland Comm Col—HEW
Portland State Col—HEW
Reed Col—HEW
Southern Oregon Col—HEW
Southwestn Oregon Comm Col—HEW
Treasure Valley Comm Col—HEW
Umpqua Comm Col—HEW
Univ of Oregon—HEW
Univ of Portland—HEW
Warner Pacific Col—HEW
Willamette Univ—HEW

Pennsylvania

Albright Col—HEW
Allegheny Col—HEW
Allegheny County Comm Col—HEW
Allentown Col St Francis—HEW
Alliance Col—HEW
Alvernia Col—HEW
Beaver Col—HEW
Bloomsburg St Col—HEW
Bryn Mawr Col—HEW
Bucknell Univ—HEW
Bucks County Comm Col—HEW
Cabrini Col—HEW
California St Col—HEW
Carnegie-Mellon Univ—DOD
Cedar Crest Col—HEW
Chatham Col—HEW
Chestnut Hill Col—HEW
Cheyney St Col—HEW
Christ Saviour Seminary—HEW
Clarion St Col—HEW
Col Misericordia—HEW
Comm Col of Philadelphia—HEW
Crozer Theol Seminary—HEW
Del Valley Col Sci & Arg—HEW
Dickinson Col—HEW
Dickinson School of Law—HEW
Drexel Inst of Tech—HEW
Dropsie Col Hebr Cog Lrng—HEW
Duquesne Univ—HEW
East Stroudsbrg St Col—HEW
Eastern Baptist Col—HEW
Eastern Pilgrim Col—HEW
Edinboro St Col—HEW
Elizabethtown Col—HEW
Ellen Cushing Jr Col—HEW
Franklin and Marshall Col—HEW
Gannon Col—HEW
Geneva Col—HEW
Gettysburg Col—HEW
Gwynedd-Mercy Col—HEW
Hahnemann Med Col & Hosp—HEW
Harcum Jr Col—HEW
Harrisburg Area Comm Col—HEW
Haverford Col—HEW
Holy Family Col—HEW
Immaculata Col—HEW
Indiana Univ of Pa—HEW
Jefferson Med Col Phila—HEW
Juniata Col—HEW
Keystone Jr Col—HEW
Kings Col—HEW
Kutztown St Col—HEW
La Roche Col—HEW
Lafayette Col—HEW
La Salle Col—HEW
Lebanon Valley Col—HEW
Lehigh Univ—HEW
Lincoln Univ—HEW
Lock Haven St Col—HEW
Lycoming Col—HEW
Manor Jr Col—HEW
Mansfield St Col—HEW
Marywood Col—HEW
Mercyhurst Col—HEW
Messiah Col—HEW
Millersville St Col—DOD
Montgomery Cnty Comm Col—HEW
Moore Col of Art—HEW
Moravian Col—HEW
Mt Aloysius Jr Col—HEW
Mt Mercy Col—HEW
Muhlenburg Col—HEW
Northeastn Christn Jr Col—HEW
Our Lady of Angels Col—HEW
Peirce Jr Col—HEW
Pennsylvania Col Optometry—HEW
Pennsylvania Col Podiatry—HEW
Pennsylvania St Univ—DOD
Phila of Osteopathy—HEW
Phila of Pharm & Sci—HEW
Phila Col of Text & Sci—HEW
Philadelphia Col of Art—HEW
Philadelphia Col of Bible—HEW
Philadelphia Musical Acad—HEW
PMC Colleges—HEW
Point Park Col—HEW
Robert Morris Jr Col—HEW
Rosemont Col—HEW
Sacred Heart Jr Col—HEW
Seton Hill Col—HEW
Shippensburg St Col—HEW
Slippery Rock St Col—HEW
Spring Garden Inst—HEW
St Fidelis Col & Sem—HEW
St Francis Col—HEW
St Josephs Col—HEW
St Vincent Col—HEW
Susquehanna Univ—HEW
Swarthmore Col—HEW
Temple Univ—HEW
Thiel Col—HEW
Univ of Pennsylvania—HEW
Univ of Pittsburgh—HEW
Univ of Scranton—HEW
Ursinus Col—HEW
Valley Forge Military Jr Col—HEW
Villa Maria Col—HEW
Villanova Univ—HEW
Washington & Jefferson Col—HEW
Watson Sch of Physiatrics—HEW
Waynesburg Col—HEW
West Chester St Col—HEW
Westminster Col—HEW
Wilkes Col—HEW
Williamsport Comm Col—HEW
Wilson Col—HEW
Womans Med Col of Pa—HEW
York Jr Col—HEW

Rhode Island

Barrington Col—HEW
Brown Univ—DOD
Bryant Col—HEW
Johnson & Wales Jr Col Bus—HEW
Mt St Joseph Col—HEW
Providence Col—HEW
Rhode Island Col—HEW
Rhode Island Jr Col—HEW
Rhode Island Sch Design—HEW
Roger Williams Jr Col—HEW
Salve Regina Col—HEW
Seminary Our Lady of Prov—HEW
Univ of Rhode Island—DOD

South Carolina

Allen Univ—HEW
Anderson Col—HEW
Benedict Col—HEW
Central Wesleyan Col—HEW
Citadel Military Col S C—HEW
Claflin Col—HEW
Clemson Univ—HEW
Coker Col—HEW
Col of Charleston—HEW
Columbia Col—HEW
Converse Col—HEW
Erskine Col—HEW
Friendship Jr Col—HEW
Furman Univ—HEW
Greenville Tech Educ Ctr—HEW
Lander Col—HEW
Medical Col of SC—HEW
Morris Col—HEW
Newberry Col—HEW
North Greenville Jr Col—HEW
Orngbrg-Calhn Tech Educ Ctr—HEW
Palmer Col—HEW
Piedmont Tech Educ Ctr—HEW
Presbyterian Col—HEW
Rench-Darlington Tech Sch—HEW
Richland Tech Educ Ctr—HEW
South Carolina St Col—HEW
Spartanburg Jr Col—HEW
Sprtnbrg Cnty Tech Educ Ctr—HEW
Sumter Area Tech Educ Ctr—HEW
Univ of South Carolina—HEW
Voorhees Col—HEW
Winthrop Col—HEW
Wofford Col—HEW
York County Tech Educ Ctr—HEW

South Dakota

Augustana Col—HEW
Black Hills St Col—HEW
Dakota Wesleyan Univ—HEW
General Beadle St Col—HEW
Huron Col—HEW
Mt Marty Col—HEW
Northern St Col—HEW
Presentation Col—HEW
Sioux Falls Col—HEW
South Dakota Sch Mines & Tech—HEW
South Dakota St Univ—HEW
Southern St Col—HEW
Univ of South Dakota—HEW
Yankton Col—HEW

Tennessee

Austin Peay St Col—HEW
Bethel Col—HEW
Carson-Newman Col—HEW
Chattanooga City Col—HEW
Chattanooga St Tech Inst—HEW
Christian Brothers Col—HEW
Cleveland St Comm Col—HEW
Columbia St Comm Col—HEW
Covenant Col—HEW
Cumberland Col of Tenn—HEW
David Lipscomb Col—HEW
East Tennessee St Univ—HEW
Fisk Univ—HEW
Freed-Hardeman Col—HEW
George Peabody Col Tchrs—HEW
Hiwassee Col—HEW
Jackson St Comm College—HEW
King Col—HEW
Knoxville Col—HEW
Lambuth Col—HEW
Lane Col—HEW
Lee Col—HEW
Le Moyne Col—HEW
Lincoln Memorial Univ—HEW
Martin Col—HEW
Maryville Col—HEW
McKenzie Col—HEW
Meharry Medical Col—HEW
Memphis Academy of Arts—HEW
Memphis St Univ—HEW
Middle Tenn St Univ—HEW
Milligan Col—HEW
Morristown Col—HEW
Owen Col—HEW
Siena Col—HEW
Southern Col of Optometry—HEW
Southern Missionary Col—HEW
Southwestern at Memphis—HEW
Tenn Agr & Indust St Univ—HEW
Tenn Technologl Univ—HEW
Tenn Temple Col—HEW
Tenn Wesleyan Col—HEW
Treveccs Nazarene Col—HEW
Tusculum Col—HEW
Union Univ—HEW
Univ of Chattanooga—HEW
Univ of Tenn—HEW
Univ of the South—HEW
Vanderbilt Univ—HEW
Wm Jennings Bryan Col—HEW

Texas

Abileen Christian Col—HEW
Allen Academy—HEW
Alvin Jr Col—HEW
Amarillo Col—HEW
Angelina Col—HEW
Angelo St Col—HEW
Austin Col—HEW
Baylor Univ—HEW
Bee County Col—HEW
Bishop Col—HEW
Blinn Col—HEW
Central Tex Union Jr Col—HEW
Christian Col Southwest—HEW
Christopher Col—HEW
Cisco Jr Col—HEW
Clarendon Col—HEW
Concordia Lutheran Col—HEW
Cooke County Jr Col—HEW
Dallas Baptist Col—HEW
Dallas County Jr Col Dist—HEW
Del Mar Col—HEW
East Texas Baptist Col—HEW
East Tex St Univ—HEW
El Centro College—HEW
Fort Worth Christian Col—HEW
Frank Phillips Col—HEW
Grayson County Jr Col—HEW
Hardin-Simmons Univ—HEW
Henderson County Jr Col—HEW
Hill Jr Col—HEW
Houston Baptist Col—HEW
Howard County Jr Col—HEW
Howard Payne Col—HEW
Huston-Tillotson Col—HEW
Incarnate Word Col—HEW
Kilgore Col—HEW
Lamar St Col of Tech—HEW
Laredo Jr Col—HEW
Lee Col—HEW
LeTourneau Col—HEW
Lon Morris Col—HEW
Lubbock Christian Col—HEW
M D Anderson Hospital—HEW
Mary Hardin-Baylor Col—HEW
McLennan Comm Col—HEW
McMurry Col—HEW
Midwestern Univ—HEW
Navarro Jr Col—HEW
North Texas St Univ—HEW
Odessa Col—HEW
Our Lady of the Lake Col—HEW
Pan American Col—HEW
Panola Col—HEW
Paris Jr Col—HEW
Paul Quinn Col—HEW
Prairie View A&M Col—HEW
Ranger Jr Col—HEW
Rice Univ—HEW
Sacred Heart Dominican Col—DOD
Sam Houston St Col—HEW
San Antonio Col—HEW
San Jacinto Col—HEW
Schreiner Inst—HEW
South Plains Col—HEW
South Texas Jr Col—HEW
Southern Methodist Univ—HEW
Southwest Texas Jr Col—HEW
Southwest Texas St Col—HEW
Southwestern Medical Sch—HEW
Southwestern Union Col—HEW
Southwestern Assemb God Col—HEW
Southwestern Christian Col—HEW
St Edwards Univ—HEW
St Marys Univ San Antonio—HEW
Stephen F Austin St Col—HEW
Sul Ross St Col—HEW
Tarleton St Col—HEW
Tarrant County Jr Col—HEW
Temple Jr Col—HEW
Texarkana Col—HEW
Texas A & M Univ Col Station—HEW
Texas A & M Univ Ctrl Sys—HEW
Texas Arts & Indust Univ—HEW
Texas Christian Univ—HEW
Texas Col—HEW
Texas Lutheran Col—HEW
Texas Southern Univ—HEW
Texas Southmost Col—HEW
Texas Technological Col—HEW
Texas Wesleyan Col—HEW
Texas Womans Univ—HEW
Trinity Univ—HEW
Tyler Jr Col—HEW
Univ of Corpus Christi—HEW
Univ of Dallas—HEW
Univ of Houston—HEW
Univ of St Thomas—HEW
Univ of Texas Arlington—HEW
Univ of Texas at Austin—HEW
Univ of Texas at El Paso—HEW
Univ of Texas Ctrl Sys—HEW
Univ of Texas Medical Sch—HEW
Wayland Baptist Col—HEW
Weatherford Col—HEW
West Texas St Univ—HEW
Wharton County Jr Col—HEW
Wiley Col—HEW

Utah

Brigham Young Univ—HEW
Dixie Col—HEW
Univ of Utah—HEW
Utah St Univ—HEW
Weber St Col—HEW
Westminster Col—HEW

Vermont

Bennington Col—HEW
Castleton St Col—HEW
Champlain Col—HEW
Col of St Joseph the Prov—HEW
Goddard Col—HEW
Green Mountain Col—HEW
Johnson St Col—HEW
Lyndon St Col—HEW
Marlboro Col—HEW
Middlebury Col—HEW
Norwich Univ—HEW
St Michaels Col—HEW
Trinity Col—HEW
Univ of Vermont—HEW
Vermont Col—HEW
Vermont Tech Col—HEW
Windham Col—HEW

Virginia

Blue Ridge Comm Col—HEW
Bridgewater Col—HEW
Central Va Comm Col—HEW
Col of William and Mary—DOD
Eastern Mennonite Col—HEW
Emory & Henry Col—HEW
Ferrum Jr Col—HEW
Hampden-Sydney Col—HEW
Hampton Inst—HEW
Hollins Col—HEW
John Tyler Tech Col—HEW
Longwood Col—HEW
Lynchburg Col—HEW
Madison Col—HEW
Mary Baldwin Col—HEW
Marymount Col of Virginia—HEW
Northern Virginia Comm Col—HEW
Old Dominion Col—HEW
Radford Col—HEW
Randolph-Macon Col—HEW
Randolph-Macon Womans Col—HEW

Roanoke Col—HEW
Shenandoah Col—HEW
Southwest Virginia Jr Col—HEW
St Pauls Col—HEW
Sullins Col—HEW
Univ of Richmond—HEW
Univ of Virginia—HEW
Virginia Commonwealth Univ—HEW
Virginia Military Inst—HEW
Virginia Polytechnic Inst—HEW
Virginia St Col—HEW
Virginia Union Univ—HEW
Virginia Wesleyan Col—DOD
Virginia Western Comm Col—HEW
Washington & Lee Univ—HEW
Va Institute of Marine Sciences—DOD

Washington

Bellevue Comm Col—HEW
Big Bend Comm Col—HEW
Central Wash St Col—HEW
Centralia Col—HEW
Clark Col—HEW
Clover Park Comm Col—HEW
Columbia Basin Col—HEW
Eastern Wash St Col—HEW
Everett Jr. Col—HEW
Fort Wright Col Holy Names—HEW
Gonza Univ—HEW
Grays Harbor Col—HEW
Green River Comm Col—HEW
Highline Col—HEW
Lower Columbia Col—HEW
Northwest Col—HEW
Olympic Col—HEW
Pacific Lutheran Univ—HEW
Peninsula Col—HEW
Seattle Comm Com—HEW
Seattle Pacific Col—HEW
Seattle Univ—HEW
Shoreline Comm Col—HEW
Skagit Valley Col—HEW
Spokane Comm Col—HEW
St Martis Col—HEW
Tacoma Com Col—HEW
Univ of Puget Sound—HEW
Univ of Washington—HEW
Walla Walla Col—HEW
Walla Walla Comm Col—HEW
Washington St Univ—HEW
Wenatchee Valley Col—HEW
Western Wash St Col—HEW
Whitman Col—HEW
Whitworth Col—HEW
Yakima Valley Col—HEW

West Virginia

Adlerson-Broaddsus Col—HEW
Beckley Col—HEW
Bethany Col—HEW
Bluefield St Col—HEW
Concord Col—HEW
Davis & Elkins Col—HEW
Fairmont St Col—HEW
Glenville St Col—HEW
Marshall Univ—HEW
Morris Harvey Col—HEW
Ohio Valley Col—HEW
Salem Col—HEW
Shepherd Col—HEW
St Marys Hosp Sch of Nursing—HEW
West Liberty St Col—HEW
West Virginia Inst Tech—HEW
West Virginia St Col—HEW
West Virginia Univ—HEW
West Virginia Wesleyan Col—HEW
Wheeling Col—HEW

Wisconsin

Alverno Col—HEW
Barron County Tchrs Col—HEW
Beloit Col—HEW
Cardinal Stritch Col—HEW
Carroll Col—HEW
Carthage Col—HEW
Columbia County Tchrs Col—HEW
Concordia Col—HEW
Dodge County Tchrs Col—HEW
Dominican Col—HEW
Edgewood Col Sacred Heart—HEW
Holy Family Col—HEW
Juneau County Tchers Col—HEW
Lakeland Col—HEW
Lawrence Univ—HEW
Layton Sch of Art—HEW
Madison Voc Tech Sch—HEW
Marian Col of Fond du Lac—HEW
Marquette Univ—HEW
Milton Col—HEW
Milwaukee Inst of Tech—HEW
Milwaukee Sch of Eng—HEW
Mt Mary Col—HEW
Mt Senario Col—HEW
Mt St Paul Col—HEW
Northland Col—HEW
Racine-Kenosha Tchrs Col—HEW
Richland County Tchrs Col—HEW
Ripon Col—HEW
Sauk County Tchrs Col—HEW
St Lawrence Sem—HEW
St Norbert Col—HEW
Stout St Univ—HEW
Taylor County Tchrs Col—HEW
Univ of Wisc Madison—HEW
Univ of Wisc Milwaukee—HEW
Univ of Wisc Cental Sys—HEW
Univ of Wisc Ctr—HEW
Vernon County Tchrs Col—HEW
Viterbo Col—HEW
Waushara County Tchrs Col—HEW
Wisc Conservatory—HEW
Wisc St Univ Central Sys—HEW
Wisc St Univ Stevens Pnt—HEW
Wisc St Univ Eau Claire—HEW
Wisc St Univ La Crosse—HEW
Wisc St Univ Oshkosh—HEW
Wisc St Univ Platteville—HEW
Wisc St Univ River Falls—HEW
Wisc St Univ Superior—HEW
Wisc St Univ Whitewater—HEW

Wyoming

Casper Col—HEW
Goshen County Comm Col—HEW
Northern Wyoming Comm Col—HEW
Northwest Comm Col—HEW
Univ of Wyoming—HEW
Western Wyomning Comm Col—HEW

Guam

Univ of Guam—Int

Puerto Rico

Catholic Univ of P R—HEW
Col of the Sacred Heart—HEW
Inter Amer Univ of P R—HEW
Puerto Rico Jr. Col—HEW
Univ of P R Mayagüez—HEW
Univ of P R Reo Piedras—HEW
Univ of P R San Juan —HEW

Virgin Islands

Col of Virgin Islands—Int.

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Part VII

Securities and Exchange Commission

Requirements Governing Payments of Cash Referral Fees by Investment Advisers: Adoption of Rules

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[Release No. IA-688, File No. S7-735]

Requirements Governing Payments of Cash Referral Fees by Investment Advisers

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of rules.

SUMMARY: The Commission is (1) adopting a new rule ("cash referral fee rule") under the Investment Advisers Act of 1940 ("Advisers Act") which makes it unlawful, except under specified circumstances and subject to certain conditions, for an investment adviser to make a cash payment to a person ("solicitor") who directly or indirectly solicits any client for, or refers any client to, an investment adviser, and (2) amending the recordkeeping rule under the Advisers Act to require an investment adviser to maintain certain records relating to the solicitation of clients under the cash referral fee rule.

EFFECTIVE DATE: September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Michael J. Eizelman, Esq. or Thomas D. Maher, Esq., (202–755–3507), Office of Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On February 2, 1978, the Commission issued a notice (Advisers Act Release No. 615)[1] that it had under consideration the adoption of a new Rule 206(4)–3 [2] under the Advisers Act [3] which would set forth conditions under which an investment adviser could pay a cash referral fee to a person who solicits clients for him. The Commission also indicated that, as an alternative, it was considering a rule which would completely prohibit cash payments by investment advisers to persons who solicit clients for them.

As stated in Advisers Act Release No. 615, the Commission has received interpretive requests concerning the applicability of the Advisers Act to arrangements pursuant to which an investment adviser compensates another person for recommending the adviser to a client or prospective client. In view of the frequency of such requests, the conflicts of interest presented by such arrangements, and the failure of the Advisers Act to address specifically the propriety of such arrangements, the Commission determined that it would be useful, both for the Commission and the investment advisory industry, to institute a rulemaking proceeding addressing the applicability of the Advisers Act to cash payments for such referral services.[4]

Upon consideration of the public comments, the Commission determined not to adopt a rule totally prohibiting the payment of cash referral fees by investment advisers, but instead to adopt new Rule 206(4)–3 delimiting the circumstances under which an investment adviser, directly or indirectly, may pay such a fee to someone who, directly or indirectly, solicits clients for, or refers clients to, the adviser. Rule 206(4)–3 prohibits any investment adviser required to be registered pursuant to Section 203 of the Advisers Act from making a cash referral fee payment to a solicitor unless certain conditions, which are described below, are satisfied.[5]

Discussion

I. Cash Referral Fees

Proposed Prohibition.—The initial issue presented by the Commission in Advisers Act Release No. 615 was whether payment of cash referral fees should be prohibited, or instead permitted subject to regulatory safeguards. The overwhelming majority of commentators favored the regulation of cash referral fees.

Many commentators expressed the view that reasonable disclosed cash referral fees, like expenditures for advertising and other methods of developing new business, should be considered to be an acceptable part of an investment adviser's overhead. A total prohibition, it was said, might have anti-competitive consequences since large investment advisers with in-house sales staffs would have an advantage over smaller advisers, and this advantage would not necessarily bear any relationship to the quality and price of the service offered. In addition, some commentators maintained that a total prohibition on cash referral fees would place investment advisers at a disadvantage with respect to banks, insurance companies, and broker-dealers. It was also suggested that a prohibition of cash fees might lead to use of other, possibly undisclosed, methods of compensation, such as directed brokerage.[6]

On the other hand, a few commentators contended that the payment of cash referral fees involves unacceptable conflicts of interest and should not be permitted under any circumstances. Although referral fee arrangements pose conflict of interest problems, the Commission is not persuaded that such arrangements are necessarily fraudulent and therefore should be prohibited. Rather, the Commission is of the view that, with appropriate regulatory safeguards, the payment of cash referral fees can be permitted consistent with the protection of investors, and that an outright prohibition of such fees would unnecessarily restrict the ability of investment advisers to make their services known to potential clients.[7] Accordingly, the Commission has determined to adopt Proposed Rule 206(4)–3 with the modifications discussed below.

Cash referral fee rule.—Paragraph (a) of Rule 206(4)–3 limits the circumstances under which an investment adviser may pay a cash referral fee, directly or indirectly, to a solicitor. A solicitor is defined in paragraph (d)(1) of the rule as "any person who, directly or indirectly, solicits any client for, or refers any client to, an investment adviser." [8] The rule as adopted also contains a definition of "client", in paragraph (d)(2), to make clear that that term includes prospective clients.

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[1] 43 FR 6095, February 13, 1978.

[2] 17 CFR 275.206(4)–3. The Commission also proposed an amendment to Rule 204–2 under the Act (17 CFR 275.204–2) to require an investment adviser to maintain certain records relating to the solicitation of clients under proposed Rule 206(4)–3.

[3] 15 U.S.C. 80b–1, et seq.

[4] The release specifically did not address the question of when, if at all, persons referring clients to investment advisers could properly be compensated by means of directed brokerage, rather than cash payments. As noted in Advisers Act Release No. 615, the cash referral fee rule should not be taken as an indication that the use of clients' brokerage to pay referral fees is proper.

[5] The Commission is also amending Rule 204–2 under the Advisers Act to require that the adviser maintain copies of disclosure documents furnished by solicitors and acknowledgments received by clients. Furthermore, copies of the agreement between the adviser and the solicitor must be maintained under existing paragraph (a)(10) of Rule 204–2.

[6] *See* note 4 *supra.*

[7] One commentator suggested that the rule should take the form of a safe harbor. In support of this position, it was argued that the interests of investors in connection with solicitation activities might be protected by means other than those specified in the rule, and that such other means should not be precluded since they might be preferable from a business standpoint. However, because of the potential for abuse which exists in connection with payments for solicitation services, the Commission believes that specific regulatory safeguards are needed and that for that reason a safe harbor rule in this area would not be appropriate.

[8] This definition is similar to that contained in the proposed rule. It has been modified slightly, in part to make clear that a person could be a solicitor within the meaning of the rule if he supplies the names of clients to an investment adviser, even if he does not specifically recommend to the client that he retain that adviser.

The rule applies to any investment adviser required to be registered pursuant to Section 203 of the Advisers Act.[9] It prohibits the payment of cash referral fees to solicitors unless four conditions are met. The first three conditions apply to all cash referral fee payments subject to the rule.

The first condition, set forth in paragraph (a)(1)(i) of the rule, is that the investment adviser be registered under the Advisers Act. Accordingly, the rule prohibits cash referral fee payments to a solicitor by an investment adviser required to be registered but who is not so registered.

The second condition, set forth in paragraph (a)(1)(ii), prohibits payment of cash referral fees to a solicitor who is subject to a statutory disqualification. The solicitor cannot be a person (i) subject to a Commission order issued under Section 203(f) of the Advisers Act (15 U.S.C. 80b–3(f)), or (ii) convicted within the previous ten years of any felony or misdemeanor involving conduct described in Section 203(e)(2)(A)–(D) of the Advisers Act or (iii) who has been found by the Commission to have engaged, or has been convicted of engaging, in any of the conduct specified in paragraphs (1), (4), or (5) of Section 203(e) of the Advisers Act, or (iv) is subject to an order, judgment or decree described in Section 203(e)(3) of the Advisers Act (15 U.S.C. 80b–3(e)(1)–(5)).[10]

The third condition, set forth in paragraph (A)(1)(iii), requires cash referral fees to be paid pursuant to a written agreement to which the investment adviser is a party. The written agreement must be kept as part of the investment adviser's books and records, pursuant to paragraph (a)(10) of Rule 204–2 under the Advisers Act.[11]

The fourth condition is stated in the alternative. Even if the first three conditions are met, cash referral fee payments are still prohibited unless they are made in one of three circumstances specified in this final condition. These circumstances are discussed below.

Impersonal advisory services.—The first circumstance, set forth in paragraph (a)(2)(i) of the rule, relates to impersonal advisory services. This paragraph permits such payments to be made to a solicitor who solicits clients only for the provision of impersonal advisory services. The term "impersonal advisory services" is defined in paragraph (d)(3) of the rule to mean (i) written materials or oral statements which do not purport to meet the objectives or needs of specific clients, (ii) statisical information containing no expression of opinions as to the investment merits of particular securities, or (iii) any combination of the foregoing services.

Under this paragraph, a registered investment adviser who offers only impersonal advisory services may pay cash referral fees to solicitors. In addition, a registered investment adviser who offers a full line of advisory services, including impersonal advisory services, may pay cash referral fees to a solicitor whose solicitation activities relate exclusively to the investment adviser's impersonal advisory services. On the other hand, an investment adviser would not be permitted under paragraph (a)(2)(i) of the rule to pay cash referral fees to a solicitor whose solicitation activities were not limited to the adviser's impersonal advisory services, even though the client might ultimately receive only impersonal advisory services.[12]

This exclusion for impersonal advisory services reflects the Commission's understanding that prospective clients normally would be aware that a person selling such services was a salesman who was paid to do so. The proposed exemption was supported by almost all commentators who addressed it and it is being adopted with only minor changes. However, instead of a total exemption from the requirements of the rule, cash referral fees can be paid pursuant to paragraph (a)(2)(i) only if the three conditions in paragraph (a)(1) are met. That is, such payments can only be made by a registered investment adviser, pursuant to a written agreement, to a solicitor who would not be subject to a statutory disqualification under Section 203 (e) or (f) of the Advisers Act.

Persons affiliated with the adviser.—Paragraph (a)(2)(ii) of the rule sets forth the second circumstance when a registered investment adviser may pay a cash referral fee. Under this provision, an investment adviser may pay such a fee to a solicitor who is (i) a partner, officer, director or employee of the adviser or (ii) a partner, officer, director or employee of a company which controls, is controlled by, or is under common control with, such investment adviser. As a condition of cash referral fees being paid, the solicitor must disclose his status as partner, officer, director or employee of the investment advisor or the company which controls, is controlled by, or is under common control with the investment adviser. If the solicitor is associated with such an affiliated company rather than with the investment adviser directly, the nature of the affiliation between that company and the investment adviser must also be disclosed.[13]

This paragraph represents a change from the proposed rule. As proposed, Rule 206(4)–3(a)(1) would have excluded from the written disclosure provisions of the rule only employees of the investment adviser whose primary duties relate to the investment advisory business of the adviser or who were clearly identified as sales representatives for the adviser. The reason for limiting the exemption to such employees or sales representatives of the adviser was that prospective clients would be aware of the natural predilection of such employees to recommend their employers, whether or not the client received specific disclosure that the employee would be compensated for bringing in new business.

The narrowness of the exemption as proposed was criticized by a number of

[9] Some commentators suggested that the rule should apply to all advisers, whether registered or not. In most if not all cases, however, an adviser who engaged a solicitor would be holding himself out as an investment adviser and thus would not be excepted from registration under Section 203(b)(3) of the Advisers Act (15 U.S.C. 80b–3(b)(3)), which is the most commonly relied upon exception from registration, even if he had fewer than fifteen clients during the preceding twelve months.

[10] The statutory disqualification condition has been modified in response to comment letters which objected to certain portions of the proposed language as being, among other things, unduly vague.

As noted in Advisers Act Release No. 615, a finding that a person has engaged in the conduct specified in Section 203 only authorizes and does not require the Commission to bar such persons from being associated with a registered investment adviser. The Commission would entertain, and be prepared to grant in appropriate circumstances, requests for permission to engage as a solicitor a person subject to a statutory bar.

[11] This and other recordkeeping requirements relating to cash referral fees are discussed *infra*.

[12] For example, an investment adviser who manages client accounts and publishes an advisory newsletter might engage a solicitor to solicit persons with respect to either or both of these services. The adviser could pay a fee under paragraph (a)(2)(i) of the rule if the solicitor recommended only the newsletter to a prospective client. If the solicitor recommended both the account management and newsletter services of the adviser to a client, a referral fee could not be paid pursuant to paragraph (a)(2)(i) even if the client decided to purchase the newsletter only. A fee might be paid, however, pursuant to the provisions of paragraph (a)(2)(iii) which sets forth the conditions applicable to fees paid to third party solicitors for other than impersonal advisory services.

[13] An investment adviser is reminded that existing provisions of Advisers Act's recordkeeping requirements may apply to solicitation activities engaged in under paragraph (a)(2)(ii) of the rule. Thus, for example, the written agreement required in paragraph (a)(1)(iii) must be maintained as part of an investment adviser's books and records pursuant to paragraph (a)(10) of Rule 204–2. In addition, an investment adviser is required pursuant to paragraph (a)(12) of Rule 204–2 to maintain a record of securities transactions of any peron who is an "advisory representative" as defined in that rule.

commentators. It was argued that the rule would present difficulties in classifying employees, and that the employee's bias and the likelihood of compensation would be apparent to prospective clients regardless of the employee's normal duties. Commentators also suggested that the exemption from written disclosure and recordkeeping requirements should be extended to persons associated with certain affiliates of the adviser when the affiliation is disclosed to the client. It was argued that there is little basis for assuming that potential clients will be any less aware of the inherent bias when an employee recommends an adviser who is a person associated with his employer than when he recommends the advisory services of his own employer.

In light of the comments, the Commission has concluded that the objective circumstances surrounding all employees of the adviser and certain close affiliates are such as to ensure that prospective clients would be aware of the solicitor's bias. As long as a client is aware that the recommended adviser is the solicitor's employer or a close affiliate of the solicitor's employer, there appears to be little need to require the imposition of additional disclosure and recordkeeping requirements regardless of the specific duties of the solicitor. Therefore, the rule as adopted does not impose such additional requirements with respect to payments made to any solicitor who is a partner, officer, director, or employee of the recommended adviser and who is identified as such, or who is a partner, officer, director, or employee of a company controlling, controlled by, or under common control with the investment adviser, provided that there is disclosure of the solicitor's relationship with the company and of that company's relationship with the recommended investment adviser.

Third party solicitors.—The third circumstance in which cash referral fees may be paid is set forth in paragraph (a)(2)(iii) of the rule. This provision governs payments to solicitors (for other than impersonal advisory services) who are not partners, officers, directors, or employees of the adviser or a person closely affiliated with the adviser. This provision has been substantially modified in response to public comments.

Under paragraph (a)(2)(iii)(A) as adopted, an investment adviser may pay a cash fee to a solicitor if the investment adviser enters into a written agreement with the solicitor which (i) describes the solicitation activities to be engaged in on behalf of the adviser, (ii) contains an undertaking by the solicitor to perform his duties under the agreement in a manner consistent with the instructions of the investment adviser and the provisions of the Advisers Act and rules thereunder, and (iii) requires that the solicitor, at the time of the solicitation, deliver to the client a current copy of the adviser's written disclosure statement ("brochure") required by Rule 204–3 (17 CFR 275.204–3) (the "brochure rule") and a separate written disclosure document containing the information required by paragraph (b) of the rule, which is described below.

In addition, paragraph (a)(2)(iii)(B) requires the investment adviser to receive from the client, prior to or at the time of entering into any written or oral investment advisory contract with such client, a signed and dated acknowledgment of receipt of the investment adviser's brochure and the solicitor's written disclosure document. As proposed, the rule would have required that the acknowledgment be received prior to the inception of the advisory relationship. In response to comments, the rule has been amended to require receipt of the acknowledgment no later than, but not necessarily prior to, the inception of the advisory relationship.

The proposed rule did not contain a provision requiring the solicitor to deliver a copy of the adviser's brochure, since the Commission had not yet adopted Rule 204–3 requiring the delivery of a brochure. The Commission believes that the requirement that the solicitor deliver a current copy of the adviser's brochure will be useful to clients and will not impose an undue burden upon solicitors or investment advisers.[14] Furthermore, delivery of a brochure by the solicitor will, in most cases, satisfy the investment adviser's obligation to deliver a brochure to the client under Rule 204–3.

Finally, paragraph (a)(2)(iii)(C) requires the investment adviser to make a bona fide effort to ascertain whether the solicitor is in compliance with the terms of the agreement and to have a reasonable basis for believing that the solicitor is in compliance.

The proposed rule would have required the investment adviser to supervise the solicitation activities of the solicitor "as if the solicitor were one of its own employees." This requirement was criticized by a number of commentators, many of whom argued that it was impractical and might be inconsistent with a solicitor's status as an independent contractor. The Commission now recognizes that this proposed provision may be somewhat impractical in light of the circumstances. Nevertheless, the Commission believes that supervision is necessary to protect the interests of investors. Sufficient protection can be achieved by requiring that the adviser make a bona fide effort to ascertain that the solicitor has complied with the agreement entered into pursuant to the rule, and that the adviser take appropriate action if the solicitor has not so complied, without requiring that the adviser supervise the solicitor as if he were one of the adviser's own employees.

The question of what would constitute such a bona fide effort would, of course, depend upon the circumstances. In general, however, it would seem that such a bona fide effort would, at a minimum, involve making inquiries of some or all clients referred by the solicitor in order to ascertain whether the solicitor has made improper representations or has otherwise violated the agreement with the investment adviser.

As proposed in Advisers Act Release No. 615, the rule would have required the periodic delivery of an updated disclosure statement if additional fees were to be paid with respect to an advisory agreement which was extended beyond the period of the initial advisory agreement or beyond one year, whichever was less, notwithstanding that the terms of such fee arrangement, including its duration, had been disclosed in the disclosure statement initially furnished to the advisory client. This requirement was criticized as imposing a substantial administrative burden which was unnecessary because of the simple nature of the matter disclosed.

Upon consideration, the Commission agrees and has decided to require disclosure of the fee arrangement only at the time of the solicitation regardless of the nature of the fee to be paid. The disclosure of the solicitor's financial interest in the client's choice of an investment adviser is important at the time of the solicitation in order for the client to evaluate properly the solicitor's recommendation. However, the client's decision to continue an advisory relationship, once established, will presumably be based upon his satisfaction with the adviser's services,

[14] It should be noted that, even if the information required in the solicitor's written disclosure statement is contained in the investment adviser's brochure, that information would nonetheless have to be supplied to the client in a separate document. The Commission believes that such separate disclosure is necessary in order to ensure that the client's attention will be directed to the fact that a cash referral fee is being paid.

rather than upon the solicitor's prior recommendation or the continuing nature of the solicitor's compensation for that recommendation.[15]

Deleted from the final rule is a paragraph that would have required the adviser to have a reasonable belief that the client is capable of evaluating the information in the disclosure document. Several commentators suggested, and the Commission agrees, that it can reasonably be assumed that advisory clients are capable of evaluating the fact that the solicitor is to receive a fee for the solicitation of the client, and that a specific requirement in this regard is unnecessary.

Content of written disclosure document.—Paragraph (b) of the rule specifies the content of the disclosure document to be given to prospective clients by the third party solicitor. The disclosure document must include the name of the solicitor, the name of the investment adviser, and the nature of the relationship between the solicitor and the investment adviser. In addition, the document must disclose the fact that the solicitor will receive compensation, the terms of the compensation arrangement, and indicate whether the client will pay a specific charge or a higher advisory fee because a solicitor recommended the investment adviser to the client.

The content of the disclosure document is substantially unchanged from the rule as proposed. Despite the criticism of some commentators, the Commission believes that the terms of the compensation paid or to be paid to the solicitor are relevant to a prospective client's evaluation of the solicitor's recommendation. Thus, if a specific amount of compensation were being paid, that amount would be required to be disclosed. If, instead of a specific amount, the solicitor's compensation was to take the form of a percentage of the total advisory fee over a period of time, that percentage and the time period would have to be disclosed. If all, or part, of the solicitor's compensation is deferred or is contingent upon some future event, such as the client's continuation or renewal of the advisory relationship or agreement, such terms would also have to be disclosed.

Investment advisers and solicitors who intend to rely upon the cash referral fee rule are reminded, and the rule specifically provides in paragraph (c), that nothing in the rule is to be deemed to relieve any investment adviser or solicitor of any fiduciary or other obligation which he may have under any law.[16]

II. *Recordkeeping Requirements.*—In proposing the cash referral fee rule, the Commission also proposed a related amendment to Rule 204–2 under the Advisers Act, the recordkeeping rule. That amendment is being adopted in somewhat modified form.

Rule 204–2(a)(10) currently requires an investment adviser to keep, for five years, copies of all written agreements relating to the business of the investment adviser as such. Since the written agreements with solicitors entered into under the newly adopted cash referral fee rule will relate to the business of the investment adviser, they will be subject to the recordkeeping provisions of Rule 204–2(a)(10) and an amendment to the recordkeeping requirements with respect to such agreements is unnecessary.

The cash referral fee rule requires an adviser to receive from a client referred by a third party solicitor an acknowledgment that the client has received from the solicitor a copy of the adviser's current brochure and a separate written disclosure document containing the information required by paragraph (b) of Rule 206(4)–3. The Commission is amending Rule 204–2 by adding a new paragraph (a)(15), requiring that an investment adviser keep copies of both such client acknowledgments and the written disclosure statements furnished by solicitors.[17]

III. *Status of Solicitors under the Advisers Act.*—As noted in Advisers Act Release No. 615, certain staff interpretative positions concerning the applicability of the Advisers Act to referral arrangements have stated that a solicitor must either be registered under the Advisers Act or a person associated with an investment adviser[18] as defined in Section 202(a)(17) of the Advisers Act (15 U.S.C. 80b–2(a)(17)).[19] In that release the Commission expressed the view that a solicitor who engaged in solicitation activities in accordance with paragraph (a)(3) of the proposed rule would be a person associated with an investment adviser and therefore would not be required to register as an adviser under the Advisers Act solely as a result of those activities. The Commission's view that such solicitors would be associated persons of an adviser was based upon the investment adviser's responsibility to supervise the activities of the solicitors. Since the rule as adopted also contains a requirement, albeit somewhat different from the one contained in the proposed rule, that an investment adviser oversee the activities of third party solicitors, and since such a solicitor's activities would be conducted in accordance with his agreement with the investment adviser, the Commission is of the view that a solicitor who engages in solicitation activities in accordance with paragraph (a)(2)(iii) of the rule being adopted will be, at least with respect to those activities, an associated person of an investment adviser and therefore will not be required to register individually under the Advisers Act solely as a result of those activities.[20]

IV. *Effective Date.*—Certain of the requirements in the new cash referral fee rule relate to brochures prepared by investment advisers pursuant to Rule 204–3. That rule does not become

[15] However, if the solicitor received separate compensation, in addition to that which had previously been disclosed, for recommending that the client continue an advisory relationship already established, that would constitute payment for another distinct solicitation and all the requirements of the rule would again have to be complied with.

[16] The rule is not intended to suggest the scope and nature of any obligations an adviser or solicitor might have under the securities laws or under other laws. For this reason, and in response to a comment, the rule as adopted omits the proposed rule's reference to a solicitor's obligation to recommend an adviser "best suited" to a client. With respect to the possible relevance of other laws, the Commission notes that, where the solicited client is a pension plan or other employee benefit plan, payment of a fee to the solicitor might, depending upon the circumstances, result in a prohibited transaction under the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code of 1954 (Code). The rule being adopted of course provides no relief from ERISA or the Code.

[17] The adviser's brochure must be retained pursuant to existing paragraph (a)(14) of Rule 204–2.

[18] *E.g.*, Connecticut Investment Management Inc., January 12, 1977; G. Serafini Investment Consultants, Inc., October 28, 1976; and Evaluation Associates, Inc., June 21, 1976. Under certain limited circumstances, however, the staff has taken no-action positions whereby it has not insisted upon registration of solicitors who would not otherwise be deemed to be a person associated with the adviser. *See, e.g.*, Old Boston Management Corporation, July 8, 1977; Clifford Shaw & Associates, Inc., October 27, 1976; and Investors Diversified Services Advisory Corporation, August 8, 1975.

[19] Section 202(a)(17), in part, defines a "person associated with an investment adviser" to include "any partner, officer, or director of such investment adviser (or any person performing similar functions), or any person directly or indirectly controlling or controlled by such investment adviser, including any employee of such investment adviser * * *."

[20] If a solicitor were a partner, officer, director or employee of the investment adviser he would, of course, be within the definition of a person associated with an investment adviser. The same would seem to be true, in most cases, of solicitors who were partners, officers, directors, or employees of persons controlling, controlled by, or under common control with the investment adviser. The status of solicitors for impersonal advisory services only would depend on the facts and circumstances. The staff of the Commission is prepared to consider no action inquiries regarding the registration of solicitors.

effective until July 31, 1979. In addition, the Commission anticipates that investment advisers will want to review their solicitation arrangements and, where necessary, conform such arrangements to the rule. Therefore, the effective date of new Rule 206(4)–3 and the accompanying amendments to Rule 204–2(a) is being delayed until September 30, 1979.

Authority.—The Commission hereby amends Rule 204–2(a) and adopts Rule 206(4)–3 pursuant to the authority contained in Sections 204, 206, and 211 of the Advisers Act (15 U.S.C. 80b–4, 80b–6 and 80b–11(a)).

Commission Action

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Part 275 of Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

1. By adding paragraph (a)(15) to § 275.204–2 to read as follows:

§ 275.204–2 Books and records to be maintained by investment advisers.

(a) * * *

(15) All written acknowledgments of receipt obtained from clients pursuant to § 275.206(4)–3(a)(2)(iii)(B) and copies of the disclosure documents delivered to clients by solicitors pursuant to § 275.206(4)–3.

2. By adding § 275.206(4)–3 to read as follows:

§ 275.206(4)–3 Cash payments for client solicitations.

(a) It shall be unlawful for any investment adviser required to be registered pursuant to Section 203 of the Act to pay a cash fee, directly or indirectly, to a solicitor with respect to solicitation activities unless:

(1)(i) The investment adviser is registered under the Act;

(ii) The solicitor is not a person (A) subject to a Commission order issued under Section 203(f) of the Act, or (B) convicted within the previous ten years of any felony or misdemeanor involving conduct described in Section 203(e)(2)(A)–(D) of the Act, or (C) who has been found by the Commission to have engaged, or has been convicted of engaging, in any of the conduct specified in paragraphs (1), (4) or (5) of Section 203(e) of the Act, or (D) is subject to an order, judgment or decree described in Section 203(e)(3) of the Act; and

(iii) Such cash fee is paid pursuant to a written agreement to which the adviser is a party; and

Note.—The investment adviser shall retain a copy of each written agreement required by this paragraph as part of the records required to be kept under § 204–2(a)(10) of this chapter.

(2) Such cash fee is paid to a solicitor:

(i) With respect to solicitation activities for the provision of impersonal advisory services only; or

(ii) Who is (A) a partner, officer, director or employee of such investment adviser or (B) a partner, officer, director or employee of a person which controls, is controlled by, or is under common control with such investment adviser: *Provided*, That the status of such solicitor as a partner, officer, director or employee of such investment adviser or other person, and any affiliation between the investment adviser and such other person, is disclosed to the client at the time of the solicitation or referral; or

(iii) Other than a solicitor specified in paragraph (a)(2) (i) or (ii) of this section if all of the following conditions are met:

(A) The written agreement required by paragraph (a)(1)(iii) of this section: (*1*) Describes the solicitation activities to be engaged in by the solicitor on behalf of the investment adviser and the compensation to be received therefor; (*2*) contains an undertaking by the solicitor to perform his duties under the agreement in a manner consistent with the instructions of the investment adviser and the provisions of the Act and the rules thereunder; (*3*) requires that the solicitor, at the time of any solicitation activities for which compensation is paid or to be paid by the investment adviser, provide the client with a current copy of the investment adviser's written disclosure statement required by § 275.204–3 of this chapter ("brochure rule") and a separate written disclosure document described in paragraph (b) of this rule.

(B) The investment adviser receives from the client, prior to, or at the time of, entering into any written or oral investment advisory contract with such client, a signed and dated acknowledgment of receipt of the investment adviser's written disclosure statement and the solicitor's written disclosure document.

Note.—The investment adviser shall retain a copy of each such acknowledgment and solicitor disclosure document as part of the records required to be kept under § 204–2(a)(15) of this chapter.

(C) The investment adviser makes a bona fide effort to ascertain whether the solicitor has complied with the agreement, and has a reasonable basis for believing that the solicitor has so complied.

(b) The separate written disclosure document required to be furnished by the solicitor to the client pursuant to this section shall contain the following information:

(1) The name of the solicitor;

(2) The name of the investment adviser;

(3) The nature of the relationship, including any affiliation, between the solicitor and the investment adviser;

(4) A statement that the solicitor will be compensated for his solicitation services by the investment adviser;

(5) The terms of such compensation arrangement, including a description of the compensation paid or to be paid to the solicitor; and

(6) The amount, if any, for the cost of obtaining his account the client will be charged in addition to the advisory fee, and the differential, if any, among clients with respect to the amount or level of advisory fees charged by the investment adviser if such differential is attributable to the existence of any arrangement pursuant to which the investment adviser has agreed to compensate the solicitor for soliciting clients for, or referring clients to, the investment adviser.

(c) Nothing in this section shall be deemed to relieve any person of any fiduciary or other obligation to which such person may be subject under any law.

(d) For purposes of this section,

(1) "Solicitor" means any person who, directly or indirectly, solicits any client for, or refers any client to, an investment adviser.

(2) "Client" includes any prospective client.

(3) "Impersonal advisory services" means investment advisory services provided solely by means of (i) written materials or oral statements which do not purport to meet the objectives or needs of the specific client, (ii) statistical information containing no expressions of opinions as to the investment merits of particular securities, or (iii) any combination of the foregoing services.

By the Commission.

George A. Fitzsimmons,

Secretary.

July 12, 1979.

[FR Doc. 79–22201 Filed 7–17–79; 8:45 am]

BILLING CODE 8010–01–M

federal register

Wednesday
July 18, 1979

Part VIII

Department of Health, Education, and Welfare

Office of Human Development Services

Special Project Grant Program—Projects of National Significance in Developmental Disabilities

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

[Program Announcement No. 13631-791]

Special Project Grant Program—Projects of National Significance in Developmental Disabilities

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant funds for the Special Project Grant Program-Projects of National Significance in Developmental Disabilities.

SUMMARY: The Rehabilitation Services Administration (RSA) announces that applications will be accepted for grants under the Special Project Grant Program-Projects of National Significance authorized by Title I, Section 145 of the Developmentally Disabled Assistance and Bill of Rights Act, Pub. L. 95–602, (42 U.S.C. 6001). Regulations governing the special Project Grant Program-Projects of National Significance in Developmental Disabilities are published in the code of Federal Regulations in 45 CFR Part 1385 and 1387, Subpart B.

DATE: Applications for grant must be received in OHDS by August 13, 1979.

Scope of This Program Announcement

This program announcement covers only projects of national significance authorized under the Special Project Grants Program of the Developmentally Disabled Assistance and Bill of Rights Act, Pub. L. 95–602. It does not include other grant programs administered by RSA. The purpose of this title is to assist States to assure that persons with developmental disabilities receive the care, treatment, and other services necessary to enable them to achieve their maximum potential through a system which coordinates, monitors, plans, and evaluates those services and which ensures the protection of the legal and human rights of persons with developmental disabilities.

Program Priorities: Goals and Objectives

The goal of the Special Project Grants Program, authorized under section 145(a) of the Act, is to demonstrate how to establish programs which will expand or improve services to developmentally disabled persons or which hold promise of expanding or otherwise improving the Developmental Disabilities (DD) Protection and Advocacy (P&A) Services related to the State Protection and Advocacy System. Applications for projects should indicate that the proposed projects will achieve only *one* of the following program objectives:

1. To obtain, review, evaluate, and disseminate to DD State Councils and others, information on exemplary services related to the priority services area, in Pub. L. 95–602, section 102, (8) (B), *child development services*, which means such services as will assist in the prevention, indentification, and alleviation of the developmental disabilities, in children, and includes (i) early intervention services, (ii) counseling and training of parents, (iii) early identification of developmental disabilities, and (iv) diagnosis and evaluation of such development disabilities.

2. To obtain, review, evaluate, and disseminate to DD State Councils and others, information on exemplary services related to the "priority service area", listed in the Act, *case management services*, which means such services to persons with developmental disabilities as will assist them in gaining access to needed social, medical, educational, and other services; and such term includes—

(i) Follow-along services which ensures, through a continuing relationship, lifelong if necessary, between an agency or provider and a person with a developmental disability and the person's immediate relatives or guardians, that the changing needs be appropriately met; and

(ii) Coordination services which provide to persons with developmental disabilities support, access to (and coordination of) other services, information on programs and services, and monitoring of the persons' progress.

3. To obtain, review, evaluate, and disseminate to DD State Councils and others, information on exemplary services related to the priority services area listed in the Act *alternative community living arrangement services* which means such services as will assist persons with developmental disabilities in maintaining suitable residential arrangements in the community, and includes in-house services (such as personal aides and attendants and other domestic assistance and supportive services), family support services, foster care services, group living services, respite care, and staff training, placement, and maintenance services, and *nonvocational social-developmental services* which means such services as will assist persons with developmental disabilities in performing daily living and work activities.

4. To demonstrate innovations in the delivery of services to isolated, homebound, and poor developmentally disabled persons in rural or rural remote areas of the country, and methods to attract and retain professionals to serve in these areas.

5. To develop a model manpower assessment tools and methodologies necessary to assist DD State Councils to uniformly assemble data concerning their need for trained professionals and paraprofessionals in the field of developmental disabilities. The grantee will disseminate the model State DD Councils for their use in subsequent years.

6. To demonstrates innovative services for parents and families of developmentally disabled persons in such areas as stress reduction; peer support; and in accessing evaluating services.

7. To establish services demonstrations to outreach and serve developmentally disabled persons who are older adults and aged, and curriculum development for inservice training of the service providers.

8. To develop and demonstrate models of involvement of the general public in all aspects of DD state planning implementation, and evaluation activities. Special attention should be given to including representation of the economically deprived, cultural minorities, racial minorities, as well as other developmentally disabled consumers and their representatives not reflected on the DD state planning council.

9. To develop an interlocking network of State Protection and Advocacy agencies, the ten regional special project back-up legal centers and other consultants by utilizing existing conferencing, facsimile slow scan TV etc. This system is to be utilized to expedite consultative, instructional, data and other information flow between and among these agencies.

10. To develop a model training package and a system of delivering ongoing technical assistance to enable generic social service workers located in (State) Title XX and IV B social service agencies to understand the special needs of families with a developmental disabled child and assure the provision of the appropriate specialized services they require. The curriculum content for such training must be developed by the grantee.

11. To demonstrate cooperative panning and further implementation of existing alternative community living arrangement services and independent living levels that are of mutual concern

to individuals served under the Developmental Disabilities Act and the Rehabilitation Services Act. (i.e. Transportation, housing, financial, medical, peer counseling and independent living skills training).

Each application must address only one of the eleven major objectives listed above. Eligible agencies may apply on separate applications for as many activities as they feel competent to carry out.

Eligible Applicants

Applications may be made by public or private non-profit private agencies, organizations, and institutions.

Available Funds

Of the amount available for this program, the Rehabilitation Services Administration expects to award approximately $2 million in Fiscal Year 1979 for new grant awards under this announcement. It is expected that approximately 15 grants will be awarded and the amount of the grants will range from $50,000 to $250,000; the average award is expected to be $133,000. New projects may be supported for periods of one to three years. The funds provided in the initial grant will sustain the budget for the first twelve month period. Support for any additional time remaining in the project period is contingent upon the availability of funds and the grantee's satisfactry performance on the project for which the grant was awarded.

Grantee Share of Project

It is expected that grantees will provide at least ten (10) percent of the total project costs. The grantee share may be cash or in-kind and be project related and allowable under the Department's regulations under Subpart G and Q in 45 CFR, Part 74. (See 43 FR 34076, August 7, 1978).

The Application Process

Availability of Application Forms

Application kits which contain the prescribed application forms, project description, and related information may be otained by making a request to: Office of Human Development Services, DHEW, Division of Research/ Developmental Disabilities, Room 3428, Mary E. Switzer Building, 330 "C" Street, SW., Washington, D.C. 20201, Attention: 13.631.791, Telephone: 202–245–0516.

Please specify which project area(s) are contemplated, so that more detailed information may be forwarded with the application kit.

Application Submission

Completed applications should be submitted to the address provided above. The application must be signed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award. One signed original and two copies of the grant application, including all attachments, are required. In addition, for those grant activities planned to be carried out in any one State, one (1) copy of the application is to be submitted to the appropriate DD State Planning Council for concurrent review, comment, and assurance that the proposed activity is consistent with the goals and objectives of that State's Developmental Disability Plan. One (1) copy should also be submitted to the appropriate Regional Office of the Rehabilitation Services Administration Services for review and comment. Addresses of DHEW Regional Offices are included in the application kit.

Circular A–95 Notification Process Center

Projects of National Significance are not covered under the A–95 Clearinghouse requirements.

Application Considerations

The Commissioner determines the final action to be taken with respect to each grant application.

All applications received by the closing date which are complete and conform to the requirements of this program announcement will be accepted for review and consideration for an award. All accepted grant applications are subject to a competitive review and evaluation conducted by a panel of Federal and non-Federal experts in the specific areas being addressed or closely related program areas.

The Commission's decision takes into account recommendations resulting from the competitive review by the panel members, comments by the State Planning Council, RSA Regional Program Directors, as well as any other persons qualified to give advice.

The Commissioner makes grant awards consistent with the purposes of the Act, the regulations, and program announcements within the limits of Federal funds available. The official grant award document is the Notice of Grant Awarded which sets forth in writing the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation. The initial award also specifies the project for which support is contemplated. After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, unsuccessful applicants will be notified in writing of that decision.

Criteria for Review and Evaluation of Grant Applications

Competing grant applications will be reviewed and evaluated against the following criteria:

1. Quality of the application (20 points). The description of the purposes and objectives of the grant activities, the major tasks to be accomplished, and difficulties likely to be encountered are clearly stated and show that the applicant has a thorough understanding of the Developmental Disabilities program the project addresses. The extent to which the project is National in scope and/or subject to nationwide replicability should be clearly presented. Applications may deviate somewhat from the announcement if adequate justification and rationale for the differences are presented.

2. Technical approach and methodology (30 points). The proposed procedures and methodology for the project should be of high quality and technically sound. The methodology should be consistent with the applicant's stated purposes and objectives and show how the anticipated results of the project will be clearly and systematically achieved. Timetables for completion of the project should be definitive and realistic. Applications should also include a discussion of how the procedures and results of the project will be evaluated.

3. Applicant qualifications (30 points). Qualifications and professional experience of staff should be appropriate and adequate to fulfill their purposed roles and functions. The facilities and resources available to the project should be adequate for fulfilling the objectives of the project. Applications should be accompanied by letters of support from agencies and organizations whose interests and/or responsibilities are relevant to the purposes of the proposed project.

4. Relevance of project objectives to program goals (10 points). The objectives of the project should be clearly delineated. The discussion of the objectives should articulate the relevance of the project objectives to the objectives of the special project grant program-projects of national significance, and how the results of the

proposed project will contribute to the achievement of those objectives.

5. Budget (10 points). The proposed budget should be realistic, reasonable, and justifiable in terms of the project activities. If project costs are not within the range described in the program announcement, sufficient explanation should be provided to justify the discrepancies. Applications should include discussions of the feasibility and propriety of continuing the project after Federal funding ends, and plans for securing financial support, if appropriate.

Closing Date for Receipt of Applications

Applications are due by close of business on August 13, 1979. Applications will be judged on time if:

a. The application was sent by mail not later than the date specified above as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service, or

b. The application is hand delivered to the office designated for the submission of the application. Hand delivered applications will be accepted no later than the close of business on the date specified above.

(Catalog of Federal Domestic Assistance Program Number: 13.631 Developmental Disabilities—Special Projects)

Dated: July 12, 1979.

Robert Humphreys,

Commissioner of Rehabilitation Services.

Approved: July 12, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

[FR Doc. 79-22175 Filed 7-17-79; 8:45 am]

BILLING CODE 4110-92-M

federal register

Wednesday
July 18, 1979

Part IX

Department of Energy

Proposed Guidelines for Compliance With the National Environmental Policy Act

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act; Proposed Guidelines

AGENCY: Department of Energy.

ACTION: Proposed guidelines for compliance with the National Environmental Policy Act.

SUMMARY: The proposed guidelines provide the supplemental agency procedures required by the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508) for implementing the procedural provisions of the National Environmental Policy Act (NEPA).

The guidelines will be applicable to all organizational units of DOE, except the Federal Energy Regulatory Commission (FERC), which is an independent regulatory commission within DOE not subject to the supervision or direction of the other parts of DOE.

The CEQ regulations, which were published in the **Federal Register** on November 29, 1978, become binding on Federal agencies as of July 30, 1979. Accordingly, DOE, at that time, will revoke the NEPA regulations of the predecessor agencies of DOE and adopt the proposed DOE guidelines on an interim basis pending publication in final form.

Written comments are requested with respect to the proposed DOE guidelines.

DATES: Comments must be received no later than August 20, 1979.

ADDRESSES: Send comments to Dr. Robert J. Stern, Acting Director, NEPA Affairs Division, Office of the Assistant Secretary for Environment, Room 4G–064, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Dr. Robert J. Stern, Acting Director, NEPA Affairs Division, Office of the Assistant Secretary for Environment, Room 4G–064, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, 202–252–6400. Stephen H. Greenleigh, Esq., Acting Assistant, General Counsel for Environment, Room 6G–087, Forrestal Building, Washington, D.C. 20586, 202–252–6947.

SUPPLEMENTARY INFORMATION:

I. Background
II. The Proposed Guidelines
III. Comment Procedures

I. BACKGROUND

A. *National Environmental Policy Act.*—The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, requires that Federal agencies give appropriate weight to factors affecting the human environment during all stages of their decisionmaking process. In this connection, NEPA requires Federal agencies to prepare detailed statements on proposals for major Federal actions significantly affecting the quality of the human environment.

B. *Council on Environmental Quality NEPA Regulations.*—Executive Order 11991 (May 24, 1977) directed CEQ to issue regulations implementing the procedural provisions of NEPA. Accordingly, CEQ published final NEPA regulations on November 29, 1978, which become binding on all Federal agencies on July 30, 1979. The CEQ regulations (40 CFR Parts 1500–1508) require agencies to adopt implementing procedures, no later than July 30, 1979, to supplement the uniform procedures established by CEQ.

C. *Department of Energy NEPA Procedures.*—The guidelines proposed in this notice provide the supplemental implementing procedures required by 40 CFR 1507.3.

The guidelines are intended for use by all persons acting on behalf of DOE in carrying out certain provisions of the CEQ regulations. They are not intended, however, to create or enlarge any procedural or substantive rights against DOE. Any deviations from the quidelines must be soundly based and must have the advance approval of the Deputy Secretary of DOE.

At the time the CEQ regulations become effective, July 30, 1979, DOE will revoke the NEPA regulations previously promulgated by the Energy Research and Development Administration (10 CFR Part 711) and the Federal Energy Administration (10 CFR Part 208) as well as the NEPA regulations of other predecessor agencies of DOE to the extent they had applied to functions transferred to DOE pursuant to the DOE Organization Act, and will adopt the proposed DOE guidelines on an iterim basis pending publication in final form.

D. *Consultation with CEQ.*—In accordance with 40 CFR 1507.3, DOE has consulted with CEQ in developing the proposed DOE quidelines.

II. THE PROPOSED GUIDELINES

A. *General.*—The implementing procedures proposed herein do not reiterate or paraphrase the CEQ provisions, in accordance with 40 CFR 1507.3, and, therefore, must be read and interpreted in conjuction with 40 CFR Parts 1500–1508.

The proposed guidelines will be applicable to all organizational elements of DOE, except FERC, an independent regulatory body within DOE.

B. *NEPA and Agency Planning.*—Section A of the guidelines generally parallels the structure of 40 CFR 1501 with respect to the integration of the NEPA process with other planning at the earliest possible time and the early identification of significant environmental issues.

In order to assure that the DOE NEPA process begins at the earlies possible time in applicant proceedings, paragraph A.1 provides procedures for the early submission of environmental information by applicants and early coordination and consultation with other governmental agencies and potentially interested parties.

Paragraph A.2 sets forth the process for determining if an environmental assessment (EA) or an environmental impact statement (EIS) is required to support a proposed DOE action. Typical classes of DOE actions which normally require an EIS, normally do not require either an EIS or an EA, and which normally require EA's but not necessarily EIS's are presented in Section D.

The DOE scoping process, which includes requirements for a Notice of Intent to prepare an EIS and an EIS implementation plan, among other things, is explained in paragraph A.3.

C. *NEPA and Agency Decisionmaking.*—Section B of the guidelines provides DOE procedures to implement the CEQ requirements with respect to agency decisionmaking (40 CFR Part 1505) to ensure that DOE decisions are made in accordance with the policies and purposes of NEPA. To comply with 40 CFR 1505.1(b), DOE has designated the major decisionmaking processes for its principal programs likely to have a significant effect on the human environment and included provisions to assure that the NEPA process corresponds with such decisionmaking processes.

Relevant environmental factors and alternatives to proposed DOE actions will be considered at the earliest possible time in the decisionmaking process. Where an EIS is prepared, the record of decision (40 CFR 1505.2) will be published in the **Federal Register** and made available upon request, except as provided in paragraph C.1 with respect to confidential or classified information.

D. *Other Requirements of NEPA.*—The CEQ regulations allow an agency to develop criteria for limiting public

access to NEPA documents which involve classified information. Paragraph C.1 provides DOE policy for addressing classified information as well as policy for addressing confidential information.

Procedures regarding DOE Modifications of the time periods specified in the CEQ regulations in certain limited circumstances are provided in paragraph C.2.

Paragraph C.3 identifies the NEPA Affairs Division within the Office of Environment as the point of contact for public inquiries regarding the DOE NEPA process. The Assistant Secretary for Environment, or his/her designee, shall be responsible for overall review of DOE NEPA compliance (paragraph C.4).

Paragraph C.5 provides that any deviation from the guidelines must be soundly based and must have the advance approval of the Deputy Secretary of DOE.

E. *Terminology.*—The terminology established in the CEQ regulations (40 CFR 1500.1) will be applied consistently throughout the guidelines.

III. COMMENT PROCEDURES

Interested persons are invited to submit written comments with respect to the proposed guidelines to Dr. Robert J. Stern, Acting Director, NEPA Affairs Division, Office of the Assistant Secretary for Environment, Room 4G-064, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Compliance with the National Environmental Policy Act." Five (5) copies should be submitted. All comments and related information should be received by DOE August 20, 1979, in order to insure consideration.

Note.—In respect to Executive Order 12044, "Improving Government Regulations," DOE has determined that the proposed guidelines are "significant" but not "major" because the anticipated effects of the proposal if made final, would be primarily to provide internal guidance for the implementation of the Council of Environmental Quality (CEQ) regulations. They do not, therefore, require a regulatory analysis.

Issued in Washington, D.C., July 13, 1979.

Ruth C. Clusen,

Assistant Secretary for Environment.

DOE NEPA GUIDELINES

Section A—NEPA and Agency Planning

Paragraph A.1. Apply NEPA Early in the Process [40 CFR 1501.2].

Paragraph A.2. Whether to Prepare an Environmental Impact Statement [40 CFR 1501.4, 1507.3(b)(2), and 1508.4].

Paragraph A.3. Scoping [40 CFR 1501.7].

Paragraph A.4. Supplemental Statements [40 CFR 1502.9(c)].

Section B—NEPA and Agency Decisionmaking

Paragraph B.1. DOE Decisionmaking Procedures [40 CFR 1505.1].

Section C—Other Requirements of NEPA

Paragraph C.1. Access to NEPA documents [40 CFR 1507.3(c)].

Paragraph C.2. Revisions of Time Periods [40 CFR 1507.3(d)].

Paragraph C.3. Status of NEPA Actions [40 CFR 1506.6(e)].

Paragraph C.4. Oversight of Agency NEPA Activities [40 CFR 1507.2(a)].

Paragraph C.5. Compliance.

Section D—Typical Classes of Action

DOE NEPA GUIDELINES

Purpose

The purpose of these guidelines is to provide procedures which the Department of Energy (DOE) will apply to implement the Council on Environmental Quality (CEQ) regulations for compliance with the National Environmental Policy Act (NEPA). The CEQ regulations are codified at 40 CFR Parts 1500–1508. The guidelines are issued pursuant to and are to be used only in conjunction with the CEQ regulations.

The guidelines are intended for use by all persons acting on behalf of DOE in carrying out certain provisions of the CEQ regulations. They are not intended, however, to create or enlarge any procedural or substantive rights against DOE. Any deviation from the guidelines must be soundly based and must have the advance approval of the Deputy Secretary of DOE.

DOE will, in accordance with 40 CFR 1507.3, review these guidelines on a continuing basis and revise them as necessary to ensure full compliance with the purposes and provisions of NEPA. Substantive changes will be published in the **Federal Register.**

Section A—NEPA and Agency Planning

1. *Apply NEPA Early in the Process*

The CEQ regulations (40 CFR 1501.2) require that:

"Agencies shall integrate the NEPA process with other planning at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts."

Specifically with respect to applicant processes, agencies are required to develop procedures that:

"(d) Provide for cases where actions are planned by private applicants or other non-Federal entities before Federal involvement so that:

"(1) Policies or designated staff are available to advise potential applicants of studies or other information foreseebly required for later Federal action.

"(2) The Federal agency consults early with appropriate State and local agencies and Indian tribes and with interested private persons and organizations when its own involvement is reasonably foreseeable.

"(3) The Federal agency commences its NEPA process at the earliest possible time.

To implement these requirements:

(a) DOE will review preliminary internal program planning documents, regulatory agenda, draft legislation, budgetary materials and other developing DOE proposals, to ensure the proper integration of the NEPA process and will:

(1) Incorporate into its early planning processes a careful consideration of: (i) the potential environmental consequences of its proposed actions, and (ii) appropriate alternative courses of action;

(2) At the earliest possible time, in accordance with paragraph A.2 herein, determine whether an environmental assessment (EA) or an environmental impact statement (EIS) is required.

(b) Applicants for a DOE lease, permit, license, certificate, financial assistance, allocation, exemption or similar action should consult with DOE as early as possible in their planning processes to obtain guidance with respect to the appropriate level and scope of any studies or environmental information which DOE may require to be submitted as part or in support of their application.

(c) DOE expects applicants to: (1) Conduct studies which are deemed necessary and appropriate by DOE to determine the impact of the proposed action on the human environment;

(2) Consult with appropriate Federal, regional, State and local agencies and other potentially interested parties during the preliminary planning stages of the proposed action to ensure that environmental factors including permitting requirements are identified;

(3) Submit applications for all required Federal, regional, State and local permits or approvals as early as possible;

(4) Notify DOE as early as possible of other Federal, regional, State, local and Indian tribe actions required for project completion in order that DOE may coordinate the Federal environmental review, and fulfill the requirements of 40 CFR 1506.2, regarding elimination of

duplication with State and local procedures, as appropriate;

(5) Notify DOE of private persons and organizations interested in the proposed undertaking, in order that DOE can consult, as appropriate, with these parties in accordance with 40 CFR 1501.2(d)(2);

(6) Notify DOE if, prior to completion of the DOE environmental review and decisionmaking process, the applicant plans or is about to take an action in furtherance of an undertaking within DOE's jurisdiction which may meet either of the criteria set forth at 40 CFR 1506.1(a).

(d) DOE will, upon receipt of an application, or earlier if possible, initiate and coordinate any requisite environmental analyses.

(e) For major categories of DOE actions involving a large number of applicants, DOE may prepare generic guidelines describing the level and scope of environmental information expected from the applicant and will make such guidelines available to applicants upon request.

(f) For DOE programs that frequently involve another agency or agencies in related decisions subject to NEPA, DOE will cooperate with the other agencies in developing environmental information and in determining whether to prepare an EA or an EIS. Where appropriate and acceptable to the other agencies, DOE will develop or cooperate in the development of interagency agreements to facilitate coordination and to reduce delay and duplication.

2. *Whether to Prepare an Environmental Impact Statement.*—The CEQ regulations (40 CFR 1501.4) require the Federal agency, in determining whether to prepare an EIS, to:

"(a) Determine under its procedures supplementing these regulations (described in § 1507.3) whether the proposal is one which:

"(1) Normally requires an environmental impact statement, or

"(2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion), and

"(b) If the proposed action is not covered by paragraph (a) of this section, prepare an environmental assessment (§ 1508.9)."

To implement this requirement and the requirements contained at 40 CFR 1507.3(b)(2):

(a) DOE has (in Section D), identified and developed specific criteria for those typical classes of DOE action:

"(i) Which normally do require environmental impact statements.

"(ii) Which normally do not require either an environmental impact statement or an environmental assessment [categorical exclusions (§ 1508.4)].

"(iii) Which normally require environmental assessments but not necessarily environmental impact statements.

(b) DOE will review individual proposed actions to ascertain whether an environmental assessment (EA) or EIS is required where:

(1) The proposed action is not encompassed within the categorizations of Section D,

(2) The proposed action is encompasssed within the categorizations of Section D, but DOE believes that the categorization is not appropriate to the individual proposed action.

(3) Public comment received on or relating to a proposal included within the categorizations of Section D raises a substantial question regarding the categorization.

(c) DOE will, in conducting the reviews of paragraph (b) above, either:

(1) Determine that neither an EA not EIS is required where it is clear that the proposed action is not a major Federal action significantly affecting the quality of the human environment. (In such cases, a brief memorandum may be prepared explaining the basis for that determination);

(2) Prepare an EA where it is unclear whether an EIS is required; or

(3) Proceed directly to EIS preparation where it is clear that an EIS is required.

(d) DOE may add actions to or remove actions from the categories in Section D based on experience gained during implementation of the CEQ regulations and these guidelines.

3. *Scoping.*—The CEQ regulations (40 CFR 1501.7) require:

"an early and open process for determining the scope of issues to be addressed and for identifying the significant issued related to a proposed action."

(a) To implement this requirement, DOE will:

(1) As soon as practicable after a decision to prepare an EIS, publish in the **Federal Register** a Notice of Intent (NOI) to prepare an EIS in accordance with 40 CFR 1501.7. However, where DOE finds that there is a lengthy period between DOE's decision to prepare and EIS and the time of actual preparation, DOE may instead publish the NOI at a time sufficiently in advance of preparation of the draft EIS to provide reasonable opportunity for interested persons to participate in the EIS preparation process.

(2) Provide additional dissemination of the NOI in accordance with 40 CFR 1506.6;

(3) Through the NOI, invite comments and suggestions on the proposed scope of the EIS including environmental issues and alternatives for consideration in the preparation of the draft EIS and invite public participation in the NEPA process in accordance with 40 CFR 1501.7(a)(1), except where there is an exception for classified proposals pursuant to 40 CFR 1507.3(c) and paragraph C.1, herein. The comment period for the NOI will normally be 20 days. To the extent practicable, DOE may consider comments received after the close of the designated comment period on the NOI in preparing the draft EIS.

(4) Prepare and utilize an EIS implementation plan as described below.

(b) The EIS implementation plan will be a brief document providing guidance to DOE for the preparation of an EIS. It will contain:

(1) Information to address the provisions of 40 CFR 1501.7(a)(2), (3), (5), (6), and (7);

(2) A detailed outline of the EIS;

(3) A description of the means by which the EIS will be prepared, including the nature of any contractor assistance to be utilized.

(c) The EIS implementation plan may also contain:

(1) Target page limits for the EIS;

(2) Target time limits for EIS preparation;

(3) An allocation of assignments among DOE and cooperating agencies.

(d) DOE will complete an EIS implementation plan as soon as practicable after the close of the designated comment period on the NOI or after a scoping meeting, if one is held, whichever is later. DOE may revise the implementation plan, as necessary during EIS preparation.

4. *Supplemental Statements.*—(a) If required, DOE will prepare, circulate, and file a supplement to a draft or final EIS, in accordance with 40 CFR 1502.9(c). However, where it is unclear whether an EIS supplement is required, DOE will prepare an analysis which provides sufficient information to support a DOE determination with respect to the criteria of 40 CFR 1502.9(c)(i) and (ii). Based on the analysis, DOE will determine whether to prepare an EIS supplement. Where DOE determines that an EIS supplement is not required, DOE will prepare a brief memorandum which explains the basis for the determination.

(b) When applicable, DOE will incorporate an EIS supplement or a brief memorandum and supporting analysis into any related formal administrative

record prior to making a final decision on the action which is the subject of the EIS supplement or analysis.

Section B—NEPA and Agency Decisionmaking

1. *DOE Decisionmaking Procedures.*—The CEQ NEPA regulations (40 CFR 1505.1) require that agencies adopt procedures to ensure that decisions are made in accordance with the policies and purposes of NEPA.

To implement this CEQ requirement, this section designates the major decisionmaking processes for DOE's principal programs and provides for procedures to assure that the NEPA process corresponds with the decisionmaking processes. These processes are designated as policy level decisionmaking, program level decisionmaking, and project level decisionmaking. The procedures consist of general procedures applicable to all DOE decisionmaking processes followed by additional procedures applicable to the specific decisionmaking processes. The decisionmaking structure designated herein is consistent with the CEQ tiering concept (40 CFR 1502.20), which provides for focusing on the actual issues ripe for decision and elminating repetitive discussions of the issues already decided. Accordingly, environmental documents prepared for policy level decisions will normally focus on broad issues and will provide the foundation for subsequent program and project environmental documents. Environomental documents prepared for program level decisions will normally focus on narrower issues than at the policy level and may summarize and incorporate by reference discussions contained in any relevant policy level environmental document but should not repeat the discussion of issues already decided at the policy level of decisionmaking. Similarly, environmental documents prepared for project level decisions will normally focus on issues specific to the proposed project and may summarize and incorporate by reference discussions contained in any broader environmental documents but should not repeat the dicussion of issues already decided at higher levels of decisionmaking.

(a) The following general procedures apply to all DOE decisionmaking processes. DOE will:

(1) At the earliest possible time in the decisionmaking process: (i) identify and evaluate environmental factors and appropriate alternative courses of action, and (ii) determine in accordance with paragraph A.2 herein the appropriate level of environmental review document required.

(2) Commence preparation of the relevant environmental document as close as possible to the time that DOE begins development of or is presented with a proposal (40 CFR 1508.23), and complete the document in advance of final decisionmaking.

(3) During the development and consideration of a proposal and the relevant environmental document, review other DOE planning and decisionmaking documents to ensure that alternatives (including the proposed action) to be considered by the decisionmaker are encompassed by the range of alternatives in the relevant environmental document.

(4) Circulate the relevant environmental document or summary thereof with the proposal and other decisionmaking documents through DOE's internal review processes to ensure that DOE officials use the environmental documents in making decisions and that the decisionmaker consider the alternatives described therein.

(5) Where an EIS is prepared, publish the record of decision (40 CFR 1505.2) in the **Federal Register** and make it available to the public upon request except as provided in paragraph C.1. For the purposes of 40 CFR 1506.1, the record of decision will be deemed issued upon signature by the appropriate DOE official.

(6) Utilize the tiering concept in accordance with 40 CFR 1502.20 and 1508.28 to the fullest extent practicable.

(b) The following procedures are applicable to the specific decisionmaking processes.

(1) *Policy level decisionmaking.*—At this level of decisionmaking, DOE is deciding on broad strategies to achieve energy goals such as conservation, development of new resources and use of more abundant resources. Policy level decisions may, for example, be represented by proposals for legislation or by formal statements of national energy policy.

(i) For legislative proposals, DOE will: identify and evaluate relevant environmental issues and reasonable alternatives, and make a determination regarding the need to prepare an environmental document during the proposal formulation and early drafting stages; and, normally prepare, consider, and publish any required environmental document in connection with the submittal of a proposal to Congress, except as may be provided in 40 CFR 1506.8.

(ii) For formal statements of national energy policy DOE will: initiate implementation of the applicable general procedures specified in paragraph (a) above during the analysis phase of policy development; and will prepare, consider, and publish any required environmental document in advance of policy adoption for those policies that will result in or substantially alter DOE programs.

(2) *Program level decisionmaking.*—At this level of decisionmaking, DOE is deciding on a variety of approaches to implement specific policies or statutory authorities. Program level decisions are generally represented by the advancement of an energy technology program, the issuance of program regulations, or the adoption of a program plan.

(i) For energy technology research, development, demonstration and commercialization programs, DOE will: initiate the applicable general procedures in paragraph (a) above concurrent with program initiation; and, if required, prepare the relevant environmental document when environmental effects can be meaningfully evaluated. When required, the relevant environmental document would normally be prepared to support a decision to proceed with the development phase of a research, development, demonstration, and commercialization program. Nevertheless, DOE will consider the following factors throughout the program in determining the necessity and appropriate timing of the relevant environmental document: (a) The significance of the environmental impacts of the technology, if applied, on the quality of the human environment; and (b) The extent to which continued investment in the new technology is likely to cause the program to reach a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

(ii) For programs that are implemented by regulations, DOE will initiate implementation of the applicable general procedures in paragraph (a) above during early regulation drafting stages. Publication of a draft EIS, if required will normally accompany publication of the proposed regulations and will be available for public comment at any hearings held on the proposed regulations. The draft EIS need not accompany notices of inquiry or advance notices of proposed rulemaking intended to gather information during early stages of regulation development. The relevant environmental document,

with comments and responses, will be included in the administrative record. In accordance with 40 CFR 1506.10(b)(2), final rulemakings promulgated pursuant to the Administrative Procedure Act may be issued simultaneously with publication of the notice of the availability of the final EIS.

(iii) For programs that are not included in paragraphs (i) or (ii) and that are implemented by a formal program plan, DOE will: initiate implementation of the applicable general procedures specified in paragraph (a) above concurrent with program plan formulation; and, if required, prepare the relevant environmental document when the environmental effects of the program can be meaningfully evaluated. If an EIS is required, it will be prepared, considered, and published and the requisite record of decision issued before taking an action that would have an adverse environmental impact or limit the choice of reasonable alternatives except as provided in 40 CFR 1506.1(c).

(3) *Project level decisionmaking.*—At this level of decisionmaking, DOE is deciding on specific actions to execute a program or to perform a regulatory responsibility. Project level decisions are generally represented by the approval of projects, by the approval or disapproval of applications, or by the decisions on applications rendered in adjudicatory proceedings.

(i) For projects that are undertaken by DOE, DOE will: initiate implementation of the applicable general procedures specified in paragraph (a) above concurrent with project concept development; and, if required, prepare, consider, and publish the relevant environmental document before making a go/no-go decision on the project.

If a DOE project requires preparation of an EIS, DOE will not take an action concerning the project which would have an adverse environmental effect or which would limit the choice of reasonable alternatives until the required record of decision is issued.

In addition, where DOE projects are accomplished through procurement contracts, DOE will consider environmental qualification and, where appropriate, evaluation criteria along with economic and technical factors in the procurement process.

(ii) For projects that involve applications to DOE for financial assistance or applications to DOE for a permit, license, exemption, allocation or similar regulatory action involving informal administrative proceedings, DOE will: apply NEPA early in the process in accordance with 40 CFR 1501.2(d) and paragraph A.1 herein; commence preparation of the relevant environmental document, if required, no later than immediately after applications are received; and consider the relevant environmental document, if one is prepared, in decisions on the application.

(iii) For actions that involve adjudicatory proceedings, DOE will: normally prepare, consider and publish the relevant environmental document, if required, in advance of a decision, and include the document in the formal record of the proceedings. If an EIS is required, the draft EIS will normally precede preliminary staff recommendations and publication of the final EIS will normally precede final staff recommendations and that portion of the public hearing related to the EIS. The EIS need not precede preliminary hearings designed to gather information for use in the EIS.

Section C—Other Requirements of NEPA

1. *Access to NEPA Documents.*—The CEQ NEPA regulations (40 CFR 1507.3(c)) allow an agency to develop criteria for limiting public access to environmental documents which involve classified information. This section provides the DOE policy for addressing classified information as well as policy for addressing confidential information.

Classified or confidential information is exempted from mandatory public disclosure by § 552(b) of the Freedom of Information Act (FOIA) (5 U.S.C. 552) and § 1004.10(b) of DOE's regulations implementing FOIA (10 CFR Part 1004). Public access to such information will be restricted in accordance with such regulations and applicable statutes.

Except for the limited classes of documents containing information which meets the criteria set forth in the applicable statutes and regulations, all NEPA documents, as defined at 40 CFR 1508.10, the EIS implementation plan and the record of decision are subject to the mandatory public disclosure requirements of FOIA and the DOE regulations implementing FOIA. DOE will determine the treatment of documents containing classified or confidential information on a case by case basis in accordance with the requirements of DOE's FOIA regulations and the applicable statutes.

Wherever possible, the fundamental policy of full disclosure of NEPA documents will be followed. In some cases, this will mean that classified or confidential information may be excised, prepared as an appendix, or otherwise segregated to allow the release of the non-sensitive portions of a document.

2. *Revisions of Time Periods.*—The CEQ regulations (40 CFR 1507.3(d)) allow agencies to provide for periods of time other than those presented in 40 CFR 1506.10 when necessary to comply with other specific statutory requirement.

(a) Certain circumstances, such as statutory or Executive Order deadlines, may require that the periods established in 40 CFR 1506.10 for the time of DOE NEPA actions be altered. If DOE determines that, in order to comply with specific requirements of other statutes or Executive Orders, such revisions are necessary, a notice of the determination will be published in the **Federal Register.** This notice will briefly provide the reason for such alterations and contain information on the revised time periods. Related notices of substantive action, if applicable, may be published jointly with notices published pursuant to this paragraph.

3. *Status of NEPA Actions.*—Individuals or organizations desiring information or status reports on elements of the NEPA process should address their inquiries to: NEPA Affairs Division, Office of Environment, Department of Energy, Washington, D.C. 20585.

4. *Oversight of Agency NEPA Activities.*—The Assistant Secretary for Environment, or his/her designee, will be responsible for overall review of DOE NEPA compliance.

5. *Compliance.*—These guidelines are intended for use by all persons acting on behalf of DOE in carrying out certain provisions of the CEQ regulations. Any deviation from the guidelines must be soundly based and must have the advance approval of the Deputy Secretary of DOE.

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SECTION D - TYPICAL CLASSES OF ACTION

normally do not require either EAs or EISs	normally require EAs but not necessarily EISs	normally require EISs
Classes of actions generally applicable to all of DOE		
Administrative procurements (e.g., general supplies)	DOE actions which enable or result in engineering development activities, i.e., detailed design, development and test of energy system prototypes.	DOE actions which are expected to result in the construction and operation of a full-scale energy system project.
Contracts for personal services	DOE actions which provide grants to state or local governments for energy conservation programs.	DOE actions which promote energy conservation through regulation of energy use on a substantial scale.
Personnel actions		
Reports or recommendations on legislation or proposed rulemaking which was not initiated by DOE		
Compliance actions, including investigations, conferences, hearings, notices of probable violations and remedial orders		
Interpretations and rulings, or modification or rescissions thereof		
Promulgation of rules and regulations which are clarifying in nature, or which do not substantially change the effect of the regulations being amended.		
Actions with respect to the planning and implementation of emergency measures pursuant to the International Energy Program		
Information gathering, analysis, and dissemination		
Actions in the nature of conceptual design or feasibility studies		
Actions involving routine maintenance of DOE-owned or operated facilities.		

normally do not require either EAs or EIS	normally require EAs but not necessarily EISs	normally require EISs
Actions in the nature of analytic energy supply/demand studies which do not result in a DOE report or recommendation on legislation or other DOE proposal		
Adjustments, exceptions, exemptions, appeals, stays or modifications or rescissions of orders issued pursuant to the Emergency Petroleum Allocation Act, as amended.		
Rate increases for products or services marketed by DOE and approval of rate increases for non-DOE entities which do not exceed the rate of inflation in the period since the last rate increase		
Actions that are substantially the same as other actions for which the environmental effects have already been assessed in a NEPA document and determined by DOE to be clearly insignificant and where such assessment is currently valid.		

Classes of actions applicable to licenses to import/export natural gas pursuant to Section 3 of the Natural Gas Act

Approval/disapproval of a new license or an amendment to an existing license which does not involve new construction, but which requires operational changes which may or may not be significant, such as an increase in LNG throughput, change in transportation or storage operations	Approval/disapproval of applications involving the construction of new liquid natural gas terminal, regasification or storage facilities or a significant expansion of an existing LNG terminal, regasification or storage facility
	Approval/disapproval of an application involving a significant operational change such as a major increase in the quantity of LNG imported or exported

normally do not require either EAs or EISs	normally require EAs but not necessarily EISs	normally require EISs
Classes of actions applicable to Propane Allocation Program		
Assignments and allocations of propane to retail and wholesale outlets for commercial and residential use	Assignments and allocations of propane to gas utilities for peak shaving, Btu enrichment or supplemental gas supplies involving new construction or a substantial change in operations or potential impact on competing users of propane.	
Assignments and allocations of propane to gas utilities for peak shaving or Btu enrichment which do not involve new construction or a substantial change in operation and where DOE has determined that such actions will not impact the supplies available for competing uses.	New assignments and allocations of propane feedstock to enable operation of or increases in operation of petrochemical plants.	
	Changes in regulatory status such as the decontrol of propane.	
Classes of actions applicable to Synthetic Natural Gas (SNG) Feedstock Allocation Program		
Approval/disapproval of an application for supplier assignment and feedstock allocation which involves continuation of SNG production at historical levels, and where DOE has determined that the requested assignment will not adversely impact competing users due to the projected availability of supply.	Issuance of an Order which reduces SNG production below historical levels and where the probability of fuel switching or other impacts caused by the reduction is unknown.	Approval/disapproval of an application for supplier assignment and feedstock allocation which involves the construction of a new SNG plant or a major modification at an existing plant.
	Issuance of an Order for an existing plant which increases the SNG production above historical levels.	Issuance of an Order which significantly reduces the feedstock allocation to an existing plant in cases where the gas supply/demand outlook indicates significant fuel switching or economic hardship may occur as a result of the curtailment of SNG feedstock.

normally do not require either EAs or EISs	normally require EAs but not necessarily EISs	normally require EISs

Classes of actions applicable to International Activities

Approval of DOE participation in international "umbrella" agreements for cooperation in energy R&D which do not commit the U.S. to any specific projects or activities.

Approval of technical exchange arrangements for information, data or personnel with other countries or international organization.

Approval of arrangements to assist other countries in identifying and analyzing their energy resources, needs and options.

Approval of export of small quantities of special nuclear materials or isotopic material in accordance with the Nuclear Non-Proliferation Act of 1978 and the "Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978" (Federal Register, Part VII, June 9, 1978).

normally do not require either EAs or EISs	normally require EAs but not necessarily EISs	normally require EISs
Classes of actions applicable to Power Marketing Authorities (PMA)		
Minor additions to a substation, transformer additions, or changes in transformer assignments that do not affect the area beyond the previously developed substation area.	Upgrading (reconstructing or reconductoring) an existing transmission line. Construction of new service facilities such as tap lines and substations. Modifications of existing facilities (e.g., substations, storage yards) where impacts extend beyond the previously developed facility area. Annual vegetation management program (systemwide). Rate increases; the need for an EIS will normally depend on the size of the increase, the percentage of demand in the service area that the PMA supplies, the relative prices between PMA supplied power and other sources, the level of any induced switching of fuels, and particular customer uses, where identifiable.	Main Transmission System Additions - additions of new transmission lines, main grid substations and switching stations to PMA's main transmission grid. Integrating Transmission Facilities - transmission system additions for integrating new sources of generation into PMA's main grid.

normally do not require either EAs or EISs	normally require FAs but not necessarily EISs	normally require EISs
Classes of actions generally applicable to Nuclear Waste Management Program		
	Exploratory and site characterization activities which by virtue of resource commitment or elapsed time for completion may foreclose reasonable site alternatives.	DOE actions resulting in t site selection, constructio or operation of major storage and/or disposal of nuclear waste, and/or spent nuclear fuel.
	Land acquisition activities solely for the purposes of reserving possible candidate sites and which do not prejudice future programmatic site selection decision.	

normally do not require either EAs or EIS	normally require EAs but not necessarily EISs	normally require EISs

Classes of actions generally applicable to DOE Implementation of Powerplant and Industrial Fuel Use Act of 1978 (FUA)

The grant or denial of any temporary exemption for any electric powerplant or major fuel-burning installation

The grant or denial of any permanent exemption for any existing electric powerplant or major fuel-burning installation, other than an exemption - (1) under section 312(c), relating to cogeneration; (2) under section 312(1), relating to scheduled equipment outages; (3) under section 312(b), relating to certain State or local requirements; and (4) under section 312(g), relating to certain intermediate load powerplants

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/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 Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

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

Rules Going Into Effect Today

COMMODITY FUTURES TRADING COMMISSION

34934 6–18–79 / Commission review of exchange disciplinary or other adverse action

COMMUNITY SERVICES ADMINISTRATION

34946 6–18–79 / Emergency energy conservation; Fiscal Year 1979 Crisis Intervention Program

CONSUMER PRODUCT SAFETY COMMISSION

34923 6–18–79 / Investigations, inspections and inquiries under the Consumer Product Safety Act

TRANSPORTATION DEPARTMENT

Materials Transportation Bureau—

34960 6–18–79 / ASME Boiler and Pressure Vessel Code; incorporation by reference

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

39413 7–6–79 / Grapefruit grown designated area in California; recommended decision and opportunity to file written exceptions to proposed marketing agreement and order; comments by 7–26–79

Animal and Plant Health Inspection Service—

38945 7–3–79 / Supplemental draft and procedures; comments by 7–24–79

Rural Electrification Administration—

30354 5–25–79 / Rural electrification and telephone programs; revision of debt service payment requirement; comments by 7–24–79

37233 6–26–79 / Wood telephone pedestal stub specification; comments by 7–26–79

CIVIL AERONAUTICS BOARD

30694 5–29–79 / Foreign indirect cargo carriers; reply comments by 7–23–79

30080 5–24–79 / Increase in passenger aircraft size for air taxis; comments by 7–23–79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

37022 6–25–79 / Foreign fishing; comments by 7–23–79

30688 5–29–79 / Tanner crab off Alaska; comments by 7–24–79

ENERGY DEPARTMENT

30278 5–24–79 / Loans for small hydroelectric power project feasibility studies and related licensing; comments by 7–23–79

Economic Regulatory Administration—

37316 6–26–79 / Retailer price rule for motor gasoline; comments by 7–26–79

Federal Energy Regulatory Commission—

33410 6–11–79 / Calculation of cash working capital allowance for electric utilities; reply comments by 7–24–79

ENVIRONMENTAL PROTECTION AGENCY

30115 5–24–79 / Air pollution emergency episode rules; Monterey Bay area, Calif.; comments by 7–23–79

30124 5–24–79 / Air pollution emergency episode rules; San Francisco Bay area; comments by 7–23–79

30118 5–24–79 / Air quality implementation plans; Calif.; comments by 7–23–79

37513 6–27–79 / Air quality implementation plans, Mass.; comments by 7–27–79

37517 6–27–79 / Chemical substances, reporting and recordkeeping; comments by 7–27–79

36434 6–22–79 / Nevada plan revision; air quality control region redesignation; comments by 7–23–79

36997 6–25–79 / Preliminary notification of hazardous waste activities; comments period extended to 7–25–79

[*See also* 43 FR 29908, 7–11–79]

36435 6-22-79 / Proposed approval of an administrative order issued by Ohio Environmental Protection Agency to Diamond Crystal Salt Co.; comments by 7-23-79

37236 6-26-79 / Revision of District of Columbia implementation plan; comments by 7-26-79

37516 6-27-79 / Tolerances and exemptions for pesticide chemicals in or on raw agricultural commodities; methonyl; comments by 7-27-79

FEDERAL COMMUNICATIONS COMMISSION

37014 6-25-79 / Applications for certificates of compliance and Federal-State/local regulatory relationships; reply comments by 7-23-79

33122 6-8-79 / FM broadcast station, proposed changes in table of assignments; Bandera, Tex.; comments by 7-23-79

33123 6-8-79 / FM broadcast station, proposed changes in table of assignments; Fordyce, Ark.; comments by 7-24-79

[Corrected at 44 FR 36081, 6-20-79]

33120 6-8-79 / FM broadcast stations, proposed changes in table of assignments; Fort Neches and Bridge City, Tex.; comments by 7-23-79

33126 6-8-79 / FM broadcast station, proposed changes in table of assignments; Haynesville, La.; comments by 7-23-79

37014 6-25-79 / FM broadcast station in Incline Village, Nevada; reply comments extended to 7-27-79

[Originally published 44 FR 22763, Apr. 17, 1979]

28022-28028 5-14-79 / FM broadcast stations in Nebraska, Wyoming, Wisconsin, and Texas; changes in table of assignments (5 documents); reply comments by 7-23-79

33124 6-8-79 / FM broadcast station, proposed changes in table of assignments; Oakhurst, Calif.; comments by 7-24-79

36085 6-20-79 / Helicopters; frequency for use for air-to-air communications; comments by 7-23-79

36085 6-20-79 / Providing a frequency for use by helicopters for air-to-air communications; comments by 7-23-79

37015 6-25-79 / Specifications of portable radio equipment to be used in totally enclosed life boats; reply comments by 7-24-79

24004 4-23-79 / Simplification of rules for recreational boaters; comments by 7-26-79

33121 6-8-79 / Television broadcast station in High Point, N.C.; proposed changes in table of assignments; comments by 7-23-79

FEDERAL MARITIME COMMISSION

29936 5-23-79 / Filing of petitions for reconsideration and for stay; comments by 7-23-79

38913 7-3-79 / Publishing and filing tariffs by common carriers in the foreign commerce of the United States; comments by 7-27-79

FEDERAL TRADE COMMISSION

30356-30375 5-25-79 / Consent agreements with analysis to aid public comment (5 documents); comments by 7-24-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

30540 5-25-79 / Women's Educational Equity Act program provisions; comments by 7-24-79

Health Care Financing Administration—

30382 5-25-79 / Medicaid program provision for reimbursement for eyeglasses and hearing aids; comments by 7-24-79

INTERIOR DEPARTMENT

Fish and Wildlife Service—

30044 5-23-79 / Captive wildlife regulation; comments by 7-23-79

38611 7-2-79 / Proposed endangered southwestern fish and cacti, listing; comments by 7-23-79

Office of Surface Mining Reclamation and Enforcement—

33626 5-11-79 / Prime farmland; initial regulatory program; comments by 7-27-79

INTERSTATE COMMERCE COMMISSION

39555 7-6-79 / Fare flexibility for bus industry; comments by 7-26-79

30387 5-25-79 / Household goods transportation; modification of provisions for storage-in-transit charges; comments by 7-24-79

37243 6-26-79 / Provisions for abandonment of railroad lines and discontinuance of service; comments by 7-25-79

JUSTICE DEPARTMENT

Parole Commission—

31026 5-30-79 / Parole, release, supervision and recommitment of prisoners, youth offenders, and juvenile delinquents; comments by 7-25-79

36077 6-20-79 / Paroling, recommitting and supervising Federal prisoners; comments by 7-25-79

LABOR DEPARTMENT

Employment and Training Administration—

36410 6-22-79 / Comprehensive Employment and Training Act; regulations concerning sectarian activities under the Act; comments by 7-23-79

[Originally published at 44 FR 36087, June 20, 1979]

NATIONAL CREDIT UNION ADMINISTRATION

33094 6-8-79 / Liquidity reserves of insured credit unions; comments by 7-25-79

PERSONNEL MANAGEMENT OFFICE

29673 5-22-79 / Alternative work schedules experiments by Federal agencies; comments by 7-23-79

POSTAL SERVICE

40899 7-13-79 / International express mail rates to Canada; comments by 7-25-79

36991 6-25-79 / National Environmental Policy Act; implementation; comments by 7-25-79

SECURITIES AND EXCHANGE COMMISSION

36070 6-20-79 / Oil and gas producers, supplemental earnings summary; comments by 7-25-79

[Previously published Sept. 12, 1978 at 43 FR 40726]

SOCIAL SECURITY, NATIONAL COMMISSION

37231 6-26-79 / Privacy Act of 1974; implementation procedures; comments by 7-27-79

TRANSPORTATION DEPARTMENT

Coast Guard—

32713 6-7-79 / Lake Mead, Nev.; disestablishment of special anchorage area; comments by 7-23-79

Materials Transportation Bureau—

37017 6-25-79 / Individual exemptions, conversion to regulations of general applicability; comments by 7-25-79

National Highway Traffic Safety Administration—

33444 6-11-79 / Side door strength; comments by 7-26-79

TREASURY DEPARTMENT

Internal Revenue Service—

29923 5-23-79 / Proposed residential energy credit regulations; comments by 7-23-79

29680 5-22-79 / Taxes on excess business holdings; comments by 7-23-79

Secret Service—

36989 6-25-79 / Procedures for providing assistance to State and local governments in protecting foreign diplomatic missions; comments by 7-25-79

WATER RESOURCES COUNCIL

30194 5–24–79 / Water and related land resources; planning; standards; comments by 7–27–79

Next Weeks Meetings:

AGRICULTURE DEPARTMENT

Forest Service—

36214 6–21–79 / Pacific Northwest Region, Cascade Head Scenic-Research Area Advisory Council, Lincoln City, Ore. (open), 7–27–79

Office of the Secretary—

40367 7–10–79 / National Advisory Council on Child Nutrition; San Francisco, California (open), 7–26 thru 7–28–79

ARTS AND HUMANITIES, NATIONAL FOUNDATION

39647 7–6–79 / Humanities Panel, Washington, D.C. (closed), 7–23–79

CIVIL RIGHTS COMMISSION

40911 7–13–79 / Idaho Advisory Committee, Lewiston, Idaho (open), 7–28–79

36219 6–21–79 / New Mexico Advisory Committee, Albuquerque, N. Mex. (open), 7–27–79

40109 7–9–79 / West Virginia Advisory Committee, Beckley, W. Va. (open), 7–25–79

COMMERCE DEPARTMENT

National Bureau of Standards—

34183 6–14–79 / Weights and measures national conference, Portland, Oregon (open) 7–22 through 7–27–79

National Oceanic and Atmospheric Administration—

36092 6–20–79 / Mid-Atlantic Fishery Management Council, Surf Clam Ocean Quahog Resources Subpanel, Dover, Del. (open), 7–27–79

40913 7–13–79 / North Pacific Fishery Management Council, Anchorage, Alaska (open), 7–26 and 7–27–79

40913 7–13–79 / Scientific and Statistical Committee and the Advisory Panel, Anchorage, Alaska (open), 7–25–79

DEFENSE DEPARTMENT

Air Force Department—

37652 6–28–79 / USAF Scientific Advisory Board Summer Study Group on Interdependence of SALT, Breakout, and Specific MX Employment Variables, Newport, R.I. (closed), 7–22 through 7–27–79

Office of the Secretary—

35001 6–18–79 / Defense Intelligence Agency Advisory Committee, Arlington, Va. (closed), 7–26 and 7–27–79

37330 6–26–79 / Defense Intelligence Agency Advisory Committee, Rosslyn, Va. (closed) 7–24–79

39577 7–6–79 / Defense Science Board Task Force on Strategic Planning Experiment in the Maritime Balance Area, Washington, D.C. (closed), 7–25–79

32435 6–6–79 / Electron Devices advisory group, Arlington, Va. (closed), 7–25 and 7–26–79

30149 5–24–79 / Wage Committee, Washington, D.C. (closed), 7–24–79

ENERGY DEPARTMENT

Bonneville Power Administration—

35285 6–19–79 / Okanogan Area Service draft facility planning supplemental to final environmental statement, Okanogan, Washington (open), 7–24–79

35285 6–19–79 / Okanogan Area Service draft facility planning supplement to final environmental statements, Brewster, Washington (open), 7–25–79

ENVIRONMENTAL PROTECTION AGENCY

39026 7–3–79 / Science Advisory Board Executive Committee, Washington, D.C. (open), 7–23 and 7–24–79

39609 7–6–79 / Science Advisory Board, Toxic Substances Subcommittee, Washington, D.C. (open), 7–24 and 7–25–79

FEDERAL COMMUNICATIONS COMMISSION

40136 7–9–79 / Radio Technical Commission for Marine Services, Washington, D.C. (open), 7–25–79

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

32590 6–19–79 / Rate system and prevailing and other pertinent matter, Washington, D.C. (open), 7–26–79

FINE ARTS COMMISSION

39574 7–6–79 / Appearance of Washington, D.C., Washington, D.C. (open), 7–24–79

GENERAL SERVICES ADMINISTRATION

40563 7–11–79 / Regional Public Advisory Panel on Architectural and Engineering Services, Kansas City, Mo. (open), 7–26 and 7–27–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

36475 6–22–79 / Cancer Guidelines Subcommittee of the Oncologic Drugs Advisory Committee, Rockville, Md. (partially open), 7–27–79

34644 6–15–79 / Dermatologic Drugs Subcommittee of the Anti-Infective and Topical Drugs Advisory Committee, Rockville, Md., 7–24–79

34644 6–15–79 / Miscellaneous Internal Drug Products Panel, Bethesda, Md. (partially open), 7–22–79

34644 6–15–79 / Opthalmic Drugs Subcommittee of the Anti-Infective and Topical Drugs Advisory Committee, Rockville, Md. (partially open), 7–23–79

National Institutes of Health—

34200 6–14–79 / Biometry and epidemiology contract review committee, Bethesda, Md. (open), 7–24–79

34200 6–14–79 / Guidelines for laboratory use of chemical substances posing a potential occupational carcinogenic risk, Bethesda, Md. (open), 7–24–79

35296 6–19–79 / President's Cancer Panel, Bethesda, Md. (open), 7–25–79

Office of the Secretary—

38605 7–2–79 / Child day care regulations, Chicago, Ill., 7–23–79

[Originally published at 44 FR 34780, June 15, 1979]

38605 7–2–79 / Child day care regulations, San Antonio, Tex., 7–23–79

[Originally published at 44 FR 34780, June 15, 1979]

38605 7–2–79 / Child day care regulations, St. Louis, Mo., 7–23–79

[Originally published at 44 FR 34780, June 15, 1979]

38605 7–2–79 / Child day care regulations, New York, N.Y., 7–25–79

[Originally published at 44 FR 34780, June 15, 1979]

38605 7–2–79 / Child day care regulations, Seattle, Wash., 7–26–79

[Originally published at 44 FR 34780, June 15, 1979]

38605 7–2–79 / Child day care regulations, Los Angeles, Calif., 7–27–79

[Originally published at 44 FR 34780, June 15, 1979]

INTERIOR DEPARTMENT

Land Management Bureau—

37699 6–28–79 / Idaho Falls Grazing Advisory Board, Idaho Falls, Idaho (open), 7–25–79

39313 7–5–79 / Indiana Dunes National Lakeshore Advisory Commission, Chesterton, Ind. (open), 7–27–79

37560 6–27–79 / Las Vegas District Grazing Advisory Board, Las Vegas, Nev. (open), 7–26–79

31725 6–1–79/Moab District Grazing Advisory Board, Price, Utah (open), 7–26–79

34204 6–14–79 / Utah, Allen Warner Valley Environmental Statement, various locations (open), 7–25 through 7–27–79

National Park Service—

40443 7–10–79 / Oil Shale Environmental Advisory Panel, Denver, Colorado (open), 7–25–79

36493 6–22–79 / Valley Forge National Historical Park: Public transportation programs, Valley Forge, Pa., 7–25–79

LEGAL SERVICES CORPORATION

41019 7–13–79 / Committee on Appropriations and Audit, Washington, D.C. (open), 7–27–79

41019 7–13–79 / Committee on Operations, Washington, D.C. (open), 7–26–79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

39317 7–5–79 / NASA Advisory Council (NAC) Space and Terrestrial Applications Advisory Committee (STAAC), Washington, D.C. (open), 7–23 and 7–24–79

NATIONAL SCIENCE FOUNDATION

39648 7–6–79 / Advisory Committee for Ocean Sciences, Subcommittee for Oceanography Project Support, Washington, D.C. (open), 7–23–79

[Originally published at 44 FR 37093, 7–6–79]

39648 7–6–79 / Advisory Committee for Ocean Sciences, Subcommittee for Oceanography Project Support, Washington, D.C. (open), 7–24 and 7–25–79

[Originally published at 44 FR 37093, 7–6–79]

37092 6–25–79 / Advisory Council Task Group No. 6, Washington, D.C. (open), 7–26–79

NUCLEAR REGULATORY COMMISSION

33983 6–13–79 / Advisory Committee on Reactor Safeguards; Subcommittee on Evaluation of Licensee Event Reports, Washington, D.C., 7–28–79

40739 7–12–79 / ACRS Ad Hoc Subcommittee on Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design, Washington, D.C. (open), 7–26 and 7–27–79

RAILROAD RETIREMENT BOARD

39678 7–6–79 / Actuarial Advisory Committee with respect to the Railroad retirement accounts, Chicago, Ill. (open), 7–25–79

STATE DEPARTMENT

Agency for International Development—

37709 6–28–79 / International Food and Agricultural Development Board, Washington, D.C. (open), 7–26–79

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

36285 6–21–79 / Air Traffic Procedures Advisory Committee, Washington, D.C. (open), 7–24 through 7–27–79

Materials Transportation Bureau—

36211 6–21–79 / Polyethylene packagings, Washington, D.C. (open), 7–24–79

National Highway Traffic Safety Administration—

35072 6–18–79 / National Highway Safety Advisory Committee, Memphis, Tenn. (open), 7–26 and 7–27–79

Saint Lawrence Seaway Development Corporation—

40756 7–12–79 / Advisory board, Chicago, Ill. (open), 7–26–79

TREASURY DEPARTMENT

40466 7–10–79 / Debt Management Advisory Committees, Washington, D.C. (open), 7–25–79

UNEMPLOYMENT COMPENSATION, NATIONAL COMMISSION

31754 6–1–79 / Portland, Ore., 7–26 through 7–28–79

VETERANS ADMINISTRATION

33757 6–12–79 / Veteran's Administration Wage Committee, Washington, D.C. (closed), 7–26–79

WATER RESOURCES COUNCIL

30194 5–24–79 / Water related land resources; planning standards; St. Louis, Mo. (open), 7–24–79

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

41021 7–13–79 / Advisory Committee, Washington, D.C. (open), 7–23 and 7–24–79

List of Public Laws

Last Listing July 12, 1979

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–375–3030).

H.R. 4556....Pub. L. 96–33 To amend section 1521 of the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to extend conditional designations of State health planning and development agencies. (July 16, 1979; 93 Stat. 86) Price $.75

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

RULES GOING INTO EFFECT

40500 7–11–79 / HEW/PHS—Preventive health service programs; effective 7–11–79

41089 7–13–79 / HUD—Community development block grants use of debarred, suspended or ineligible contractors or subrecipients; effective 8–13–79

MEETINGS

40373 7–10–79 / Commerce/NOAA—Sea Grant Review Panel, 8–14 and 8–15–79

40738 7–12–79 / NFAH—Media Arts Advisory Panel, Washington, D.C. (closed), 8–13 through 8–15–79

OTHER ITEMS OF INTEREST

40075 7–9–79 / HUD—Community Development Block grants; reallocation; proposed rule transmitted to Congress

40444 7–10–79 / Justice/LEAA—Guide for Discretionary Grant Programs; National Victim/Witness Strategy

40943 7–13–79 / Labor/ETA—Employment transfer and business competition determinations; financial assistance applications

40147 7–9–79 / LSC—Grant applications and contracts; Calif.; comments solicited

Public Laws

This is the first of three planned cumulative lists of public laws for the first session of the 96th Congress. Careful consideration was given to the comments received in response to the December 4, 1978 list (43 FR 56764). Regarding frequency of publication, some commenters suggested monthly lists, other commenters suggested quarterly lists, and some commenters suggested six-month intervals. The volume of public laws during the first six months of 1979 was so low that monthly lists would have been impractical. However, historically, there is more legislative activity during the second half of the calendar year. Therefore, we plan to publish another cumulative list sometime in early October and another final, complete list at the end of the first session of the 96th Congress. Public law numbers will continue to be announced after enactment in the "Reader Aids" section of the Federal Register under the heading "List of Public Laws".

The arrangement of material in the list was considered satisfactory by most commenters and therefore no change has been made. Comments are still welcome and should be mailed to the Director, Office of the Federal Register, Washington, D.C. 20408.

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
Jan. 22	H.J. Res. 1	96-1	93:3	To extend the time for filing the Economic Report.	$ .75
Mar. 7	H.R. 1902	96-2	93:4	To amend the Bank Holding Company Act Amendments of 1970.	.75
	S. 37	96-3	93:5	To repeal a section of Public Law 95-630.	.75
Mar. 30	H.R. 2301	96-4	93:6	To amend the Federal District Court Organization Act of 1978 with respect to certain administrative matters arising from the redrawing of the Federal judicial districts in the State of Illinois.	.75
Apr. 2	H.R. 2534	96-5	93:8	To provide for a temporary increase in the public debt limit, and for other purposes.	.75
Apr. 3	H.R. 1147	96-6	93:10	To extend temporarily the authority of the Secretary of the Treasury to waive the imposition of countervailing duties.	.75
Apr. 9	H.R. 2439	96-7	93:11	To rescind certain budget authority contained in the message of the President of January 31, 1979 (H. Doc. 96-46), transmitted pursuant to the Impoundment Control Act of 1974.	.75
Apr. 10	H.R. 2479	96-8	93:14	Taiwan Relations Act.	.75
Apr. 19	H.J.Res. 283	96-9	93:22	Reaffirming the United States commitment to the North Atlantic Alliance.	.75
May 10	H.R. 2283	96-10	93:23	To amend the Council on Wage and Price Stability Act to extend the authority granted by such Act to September 30,1980, and for other purposes.	.75
May 18	H.J.Res. 262	96-11	93:25	To declare May 18, 1979 to be "National Museum Day".	.75
May 23	S.J.Res. 80	96-12	93:26	To confer certain powers on the Presidential Commission appointed to investigate the Three Mile Island nuclear powerplant accident.	.75
May 24	S.J.Res. 71	96-13	93:28	To authorize and request the President to proclaim the week of May 6 through 12, 1979, as "National Historic Preservation Week".	.75
	S. 532	96-14	93:29	Pension Policy Commission Act.	.75
May 26	S. 631	96-15	93:32	To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to John Wayne.	.75
June 4	H.R. 1787	96-16	93:33	To authorize a supplemental appropriation to the National Aeronautics and Space Administration for research and development.	.75
	H.R. 2520	96-17	93:34	To amend the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 to authorize appropriations to carry out the provisions of such Act for fiscal year 1980.	.75
June 8	H.R. 3404	96-18	93:35	To amend the Federal Reserve Act to authorize Federal Reserve banks to lend certain obligations to the Secretary of the Treasury to meet the short-term cash requirements of the Treasury, and for other purposes.	.75
June 13	H.R. 2805	96-19	93:37	To make technical and conforming changes to the financial disclosure provisions in the Ethics in Government Act of 1978.	.75
	S. 348	96-20	93:45	To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ben Abruzzo, Maxie Anderson, and Larry Newman.	.75

Approval Date	Bill No.	Public Law No.	U.S. Statutes at Large	Subject Matter	Price
June 13	S. 613	96-21	93:46	Authorizing the President of the United States to present a gold medal to the widow of Hubert H. Humphrey.	.75
	S. 7	96-22	93:47	Veterans' Health Care Amendments of 1979.	1.25
	S. 709	96-23	93:68	To authorize appropriations for the Coast Guard for fiscal years 1980 and 1981, and for other purposes.	.75
June 19	H.R. 3915	96-24	93:70	To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for 10 months the date on which the corporation must pay benefits under terminated multiemployer plans.	.75
	S. 199	96-25	93:71	Shipping Act Amendments of 1979.	.75
June 21	H.R. 3577	96-26	93:74	To amend section 8 of the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such Act for fiscal year 1980, and for other purposes.	.75
	H.R. 3879	96-27	93:75	To authorize additional appropriations for the Temporary Commission on Financial Oversight of the District of Columbia, and for other purposes.	.75
June 22	S. 869	96-28	93:76	To amend section 207 of title 18, United States Code	.75
June 27	S. 429	96-29	93:78	Department of Defense Supplemental Appropriation Authorization Act, 1979	.75
June 30	S. 1317	96-30	93:80	To extend the existing antitrust exemption for oil companies that participate in the Agreement on an International Energy Program.	.75
July 7	S. 984	96-31	93:81	To provide the Secretary of Agriculture with authority to reduce marketing penalties for peanuts.	.75
July 10	S.J.Res. 14	96-32	93:82	To amend the Public Health Service Act and related health laws to correct printing and other technical errors.	.75
July 16	H.R. 4556	96-33	93:86	To amend section 1521 of the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to extend conditional designations of State health planning and development agencies	.75

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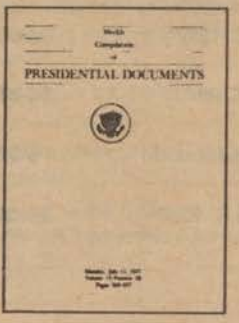

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