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Friday
November 23, 1979

Highlights

67071 **Aid for Kampucheans** Presidential determination

67073 **Trade Sanctions Against Rhodesia** Presidential determination

67178 **Income Tax** Treasury/IRS proposes rules relating to the procedure for electing an alternative amortization method of funding certain pension plans; comments by 1–21–80

67089 **Three- and Four-Family Dwellings** FHLBB permits Federal savings and loan associations to make loans with low downpayments under certain circumstances; effective 12–24–79

67134 **Guaranteed Loans** USDA/FmHA proposes to amend its regulations pertaining to administration of all FmHA programs; comments by 1–21–80

67181 **Veterans Education** VA proposes rules which specify more fully the conditions which must exist before an eligible person can be paid during an interval between terms, quarters and semesters; comments by 12–24–79

67179 **Veterans Education** VA proposes a rule regarding more precisely the time limits within which schools must submit reports; comments by 12–24–79

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67152 **Securities** SEC proposes a rule pertaining to transient investment companies; comments by 1–11–80

67150 **Securities** SEC proposes rulemaking regarding certain investment companies owned by companies which are not investment companies; comments by 1–14–80

67107 **Securities** SEC adopts a rule relating to information required in solicitation of proxies other than by the issuer; effective date 12–24–79

67143 **Securities** SEC proposes amendments regarding exhibit requirements; comments by 12–31–79

67108 **Natural Gas Policy** DOE/FERC clarifies a section of its rules which establish the maximum lawful price for gas from new, onshore production wells; effective 11–16–79

67166 **Natural Gas Policy** DOE/FERC proposes a rule to specify the application procedures, form of authorization, and terms and conditions of transportation; comments by 12–10–79

67170 **Natural Gas Policy** DOE/FERC proposes under the incremental pricing program to include all industrial users of natural gas that are not granted an exemption from the program by statute; comments by 1–31–80

67154, 67158 **Electric Industry** DOE/FERC proposes to establish procedural and substantive rules governing proceedings involving an issue of price squeeze; comments by 12–24–79 (2 documents)

67125 **Citizens Band Radio Service** FCC amends rule to authorize licensees to communicate cross-border with the Canadian General Radio Service (GRS)

67088 **Operating License Proceeding** NRC adjudicatory boards may examine any "serious" matter not contested by the parties; effective 11–30–79

67185 **Procurement** HEW/Sec'y proposes to amend its rules to incorporate confidentiality of information and protection of privacy; comments by 1–6–80 and 12–24–79 respectively

67290 **Sunshine Act Meetings**

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67330 **Part III, DOE**
67338 **Part IV, DOE/ERA**

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Presidential Documents

Title 3—

The President

Presidential Determination No. 80–5 of November 13, 1979

Determination Pursuant to Section 2(c)(1) of Migration and Refugee Assistance Act of 1962, as Amended, (The "Act"), Authorizing the Use of $2,000,000 of Funds Made Available From the United States Emergency Refugee and Migration Assistance Fund

Memorandum for the Secretary of State

In response to the urgent financial needs of the Relief Program within Kampuchea, I hereby determine that it is important to the national interest that up to $2,000,000 from the United States Emergency Refugee and Migration Assistance Fund be made available through the Department of State for transfer to the United Nations Children's Fund for this purpose.

The Secretary of State is requested to inform the appropriate committees of Congress of this Determination and the obligation of funds under this authority.

This Determination shall be published in the **Federal Register.**

Jimmy Carter

THE WHITE HOUSE,
Washington, November 13, 1979.

[FR Doc. 79–36355
Filed 11–20–79; 4:24 pm]
Billing code 3195–01–M

Presidential Documents

Presidential Determination No. 80–6 of November 14, 1979

Maintenance of Sanctions Against Zimbabwe-Rhodesia Under Section 408(b) of the Department of State Authorization Act, Fiscal Years 1980 and 1981

Memorandum for the Secretary of State

Pursuant to Section 408(b) of the Department of State Authorization Act, Fiscal Years 1980 and 1981 (93 Stat. 405), I hereby determine that it is in the national interest of the United States to continue sanctions against Zimbabwe-Rhodesia at this time.

You are requested, on my behalf, to report this determination promptly to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate.

You are further requested to report to me immediately upon the conclusion of the present Constitutional Conference on Zimbabwe-Rhodesia being held in London, describing the conclusions of that conference and your recommendations for action by the United States with respect to the termination of sanctions.

This determination shall be published in the **Federal Register.**

Jimmy Carter

THE WHITE HOUSE,
Washington, November 14, 1979.

[FR Doc. 79–36356
Filed 11–20–79; 4:25 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
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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

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 227]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period November 25–December 1, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: November 25, 1979.

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

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The committee met on November 19, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is expected to be easier.

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

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202–447–5975.

Section 910.527 is added as set forth below:

§ 910.527 Lemon regulation 227.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period November 25, 1979, through December 1, 1979, is established at 230,000 cartons.

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

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

Dated: November 20, 1979.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-36410 Filed 11-21-79; 12:23 pm]

BILLING CODE 3410-02-M

7 CFR Part 981

Handling of Almonds Grown in California; Administrative Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule makes changes in the creditable advertising and quality control provisions of the administrative rules and regulations established under the Federal marketing order for California almonds. These changes are necessary to bring the provisions into conformity with current industry operating practices, and to aid handlers in selling increased supplies of almonds.

EFFECTIVE DATE: November 26, 1979.

FOR FURTHER INFORMATION CONTACT: William J. Higgins, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–5053.

SUPPLEMENTARY INFORMATION: Notice was published in the October 5, 1979, issue of the **Federal Register** (44 FR 57417) to amend Subpart—Administrative Rules and Regulations (7 CFR 981.401–981.474; 44 FR 30074, 31161) by revising §§ 981.441 and 981.442. No comments were received.

This subpart is issued under the marketing agreement, as amended, and Order No. 981, as amended (7 CFR 981), regulating the handling of almonds grown in California. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on a recommendation of the Almond Board of California.

Section 981.441 pertains to crediting a handler's assessment obligation for paid advertising, which is authorized pursuant to § 981.41 in the order, and is revised to update two of its provisions.

As provided in § 981.441(b), in order for a handler to receive credit for a paid advertisement, each advertisement must be published, broadcast, or displayed during the crop year for which credit is requested, except that a handler may expend a maximum of five percent of the total creditable advertising obligation (as of the June 30

redetermination report) in the subsequent July 1–September 1 period. In this case, the accompanying documentation must be filed with the Board no later than September 30. A handler utilizing this extension of time, however, has to certify to the Board, at time of redetermination, the planned expenditures during the extension period.

The five percent limit on such credit, however, is now seen as unnecessarily restricting handler operations. The sometimes large fluctuations in the size of the almond crop cause expansion or curtailment in advertising programs. Thus, it is desirable to provide that a greater portion of a handler's creditable advertising be carried over from one crop year to the next, in order to better sustain a fairly consistent ongoing advertising program. Therefore, § 981.441(b)(i) is revised to permit that a maximum of twenty percent of the total handler creditable advertising obligation as of the June 30 redetermination report may be expended no later than December 31 of the subsequent crop year, and the related documentation filed with the Board no later than the following January 31.

Currently, § 981.441(e)(2) provides that credit not to exceed in total 10 percent of the creditable obligation for advertising in each crop year, would be granted a handler for media expenditures for advertising in 14 foreign countries. These countries are Great Britain, France, Italy, West Germany, Denmark, Belgium, Ireland, Luxembourg, the Netherlands, Sweden, Norway, Finland, Switzerland, and Japan. Credit may be allowed when claims are substantiated by applicable rate cards. The provisions of this section applicable to domestic advertising would apply to the crediting of advertising in these countries.

Given the importance to the almond industry of its export markets—which are expected to take approximately two-thirds of the 1979 California almond crop—the current ten percent limit is considered restrictive. Thus, § 981.441(e)(2) is revised to increase this limit to twenty percent of a handler's total creditable advertising expenditures in the specified foreign countries.

Section 981.42 provides for each handler to cause to be determined, through the inspection agency, and at the handler's expense, the percent of inedible kernels in each variety of almonds received, and report this determination to the Board. The quantity of inedible kernels in each variety in excess of two percent of the kernel weight received, constitutes a weight obligation to be accumulated in the course of processing and shall be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. Section 981.42 also authorizes the Board, with the approval of the Secretary, to change this percentage for any crop year, and to establish rules and regulations necessary and incidental to the administration of this provision, including, among other things, that the Board for good cause may waive portions of obligations for those handlers not generating inedible material from such sources as blanching or manufacturing.

Section 981.442 specifies the procedures for implementing § 981.42. Currently, § 981.442(a)(1) provides for the sampling procedures for handlers to follow. For receipts of almonds at a handler's premises with mechanical sampling equipment and under contract providing for payment by the handler to the producer for sound meat content, samples shall be drawn by the handler in a manner acceptable to the Board and the inspection agency. The inspection agency shall make periodic checks of the mechanical sampling procedures. For all other receipts, including but not limited to field examination and purchase receipts, accumulations purchased for cash at the handler's door or from an accumulator, or almonds of the handler's own production, samples shall be drawn by or under the surveillance of the inspection agency. All samples shall be bagged and identified in a manner acceptable to the Board and the inspection agency. Each handler shall identify receipts according to the method of acquisition, and shall submit to the Board such reports of the quantity received by method of acquisition, as the Board may require.

As these provisions apply to a handler's own production, however, they do not now conform with industry practice. That is, handlers currently take safeguards to insure impartial sampling of almonds of their own production. Therefore, to conform the requirements to current practices, § 981.442(a)(1) is revised so that for such almonds, sampling shall be conducted or monitored by the inspection agency in a manner acceptable to the Board. Moreover, handlers will no longer be required to identify and report receipts according to the method of acquisition.

Section 981.442(a)(5) currently provides that the quantity of inedible kernels in each variety in excess of one and one-half percent of the kernel weight received, constitutes a handler's weight obligation to be delivered to the Board, or Board accepted crushers, feed manufacturers, or feeders. The industry believes that a tolerance of two percent is more realistic and the current tolerance places an economic hardship on small handlers without almond product manufacturing facilities. Therefore, this tolerance is increased to two percent.

After consideration of all relevant matter presented, including that in the notice, the recommendation submitted by the Board, and other available information, it is found that to amend the administrative rules and regulations as herein set forth will tend to effectuate the declared policy of the act.

It is further found that it is impractical, unnecessary, and contrary to the public interest to postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) The 1979–80 crop year began July 1, 1979, and handlers need to know as soon as possible of changes in the administrative rules and regulations; and (2) these changes are less restrictive on handlers than those regulations currently in effect.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from William J. Higgins, (202) 447–5053.

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 981.441—981.474) is amended as follows:

1. In § 981.441, paragraphs (b) and (e)(2) are revised to read as follows:

§ 981.441 Crediting for paid advertising.

* * * * *

(b) Each advertisement must be published, broadcast, or displayed during the crop year for which credit is requested, except: (1) that a maximum of 20 percent of the total handler creditable advertising obligation as of the June 30 redetermination report may be expended no later than December 31 of the subsequent crop year, and documentation therefor filed with the Board no later than the following January 31; and (2) that a handler utilizing this extension certify to the Board, at time of redetermination, the planned expenditures during the extension period. The credit granted by the Board shall be that which is appropriate when compared to the applicable outlet rate published in the domestic or Canadian catalogs of Standard Rate and Data Service, or station or publisher or outdoor rate cards. In the case of claims for credit not

covered by any such source, the Board shall grant the claim if it is consistent with rates for comparable outlets. For advertisements in countries other than the United States and Canada, paragraph (e) shall apply.

* * * * *

(e) Credit for media expenditures in a foreign country shall be granted:

* * * * *

(2) For a handler's media expenditures for brand advertising of almonds in the following countries: Great Britain, France, Italy, West Germany, Denmark, Belgium, Ireland, Luxembourg, The Netherlands, Sweden, Norway, Finland, Switzerland, and Japan, credit shall be allowed when claims are substantiated by applicable rate cards. The provisions of this section applicable to domestic advertising shall also apply to the crediting of advertising in these countries. The total of the foreign credit shall not exceed 20 percent of a handler's advertising assessment in each crop year.

* * * * *

2. In § 981.442(a) subparagraphs (1) and (4) are revised to read as follows:

§ 981.442 Quality control.

(a) *Incoming.* Pursuant to § 981.42(a), the quantity of inedible kernels in each variety of almonds received by a handler, including almonds of own production, shall be determined and disposed of in accordance with the provisions of this paragraph.

(1) *Sampling.* Each handler shall cause a representative sample of almonds to be drawn from each lot, except lots of Peerless variety designated as bleaching stock, of any variety received. The sample shall be drawn before inedible kernels are removed from the lot, or the lot is processed or stored by the handler. For receipts at premises with mechanical sampling equipment and under contracts providing for payment by the handler to the producer for sound meat content, samples shall be drawn by the handler in a manner acceptable to the Board and the inspection agency. The inspection agency shall make periodic checks of the mechanical sampling procedures. For all other receipts, including but not limited to field examination and purchase receipts, accumulations purchased for cash at the handler's door or from an accumulator, or almonds of the handler's own production, sampling shall be conducted or monitored by the inspection agency in a manner acceptable to the Board. All samples shall be bagged and identified in a manner acceptable to the Board and the inspection agency.

* * * * *

(4) *Disposition obligation.* The weight of inedible kernels in excess of two percent of kernel weight reported to the Board of any variety received by a handler shall constitute the disposition obligation. If a variety other than Peerless is used as bleaching stock, the weight so used may be reported to the Board and the disposition obligation for that variety reduced proportionately.

* * * * *

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

Dated November 16, 1979 to become effective November 26, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 79-36089 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1421

Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed

AGENCY: Commodity Credit Corporation, United States Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule sets forth in the Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed (hereinafter referred to as "Standards") the requirements which must be met and the procedures which must be followed by a warehouseman in the United States or Puerto Rico who desires an approval by the Commodity Credit Corporation (hereinafter referred to as "CCC") of warehouse(s) for the storage and handling of CCC-owned or Loan commodities under the applicable commodity agreements. The rule establishes (1) an increase in the minimum net worth requirement from $10,000 to $25,000; (2) $250,000 maximum net worth; and (3) an increase in the commodity value factor to be used in calculating the net worth requirement. Additional changes have been made to improve clarity, understanding and general administration of the Standards.

This rule revises the regulations which previously appeared in the **Federal Register**, Subpart—Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed published in the **Federal Register** on November 10, 1975 (40 FR 52351).

This revision incorporates changes in the regulations which are necessary in order to obtain uniformity and clarity in the Standards. The rule would affect all warehousemen who make application to handle and store CCC-owned or CCC-loan commodities under the applicable storage agreement. The rule would not affect warehousemen currently under contract with CCC until such time as their contracts are to be renewed.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene A. Williams, (ASCS), (202) 447–7335.

ADDRESS: Inventory Management Division, ASCS, U.S. Department of Agriculture, Room 5969–S, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: Section 4 of the CCC Charter Act, as amended, provides that CCC may enter into and carry out such contracts or agreements as are necessary in the conduct of its business and may contract for the use, in accordance with the usual customs of trade and commerce, of plants and facilities for the physical handling, storage, processing, servicing, and transportation of the agricultural commodities subject to its control.

On April 3, 1979, there was published in the **Federal Register** (44 FR 19411–13) CCC's proposed revision of the Standards for Approval of Warehouses for Grains, Rice, Dry Edible Beans, and Seed. Interested persons were asked to comment on the proposed rule. A total of five responses were received. Two were from Federal Government agencies and one each from an association of insurance companies, an institute of public accountants, and a cotton warehouseman.

All responses agreed in principle with the proposed rule or some variation thereof. One Federal Government agency suggested a higher commodity value factor should be used in the calculation of a minimum net worth, and that a bond be furnished on the amount that the net worth fell below $25,000. A minimum net worth requirement of $25,000 was selected because it should improve storage security and reduce potential losses to depositors on commodities in store.

If implementation of the $25,000 minimum net worth requirement would result in a critical shortage of warehouse space in some areas, CCC may waive the requirement. The regulation provides that if warehousing services in any area cannot be secured under the provisions of the Standards for Approval, and no reasonable and economical alternative is available for securing such services for commodities under CCC programs,

CCC may exempt applicants in such areas from one or more of the provisions of the Standards and may establish such other requirements as are necessary to safeguard satisfactorily the interests of CCC. With this authority, CCC may waive the net worth requirement for any warehouse where it is found to be necessary in order to carry out the price support and loan program.

The insurance association suggested that a clause be added to Section 1421.5553, "Bonding Requirements for Net Worth," which would state that the bond was not cumulative regardless of the number of years it was in force, and that the maximum liability of the surety was the face amount of the bond including any endorsements thereto. The association stated that they would always know what their liability was with respect to this type of clause. Under a cumulative bonding liability, however, insurers are unsure of their liability with regard to potential claims, and underwriting was, therefore, made more difficult.

The suggestion of the insurance association was rejected because bonding liability on a continuous basis provides more comprehensive security for CCC. There could be a situation, for example, where a warehouseman with a bond of $100,000 per year may be liable for conversion of $75,000 the first year; $50,000 the second year; and, $50,000 the last year. The revision suggested by the insurance association would limit the warehouseman's potential liability to only $50,000 in the last year. Under CCC's present application of the bonding standard, which shall be continued, CCC would potentially collect damages to the maximum of $100,000 per year for the duration of the bond. Thus, under the example cited above, the warehouseman and the insurer would be potentially subject to $175,000 in claims by CCC.

Other suggestions were received from two Federal Government agencies and the institute of public accountants for changes to improve the clarity and understanding of the Standards. These suggestions will be adopted without requesting further comment, since they simply enhance the interpretation of some of the provisions and do not affect the substantative changes outlined in the proposed rule.

Final Rule

Accordingly, 7 CFR 1421 is revised to change §§ 1421.5551 through 1421.5557 to read as follows:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—Standards for Approval of Warehouses for Grain, Rice, Dry Edible Beans, and Seed

Sec.

1421.5551 General statement and administration.
1421.5552 Basic standards.
1421.5553 Bonding requirements for net worth.
1421.5554 Examination of warehouses.
1421.5555 Exceptions.
1421.5556 Approval of warehouses; requests for reconsideration.
1421.5557 Exemption from requirements.

Authority: Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714 b).

Subpart—Standards For Approval of Warehouses For Grain, Rice, Dry Edible Beans, and Seed

§ 1421.5551 General statement and administration.

(a) This subpart prescribes the requirements which must be met and the procedures which must be followed by a warehouseman in the United States or Puerto Rico who desires the initial or continuing approval by the Commodity Credit Corporation (hereinafter referred to as "CCC") of warehouse(s) for the storage and handling of:

(1) Wheat, oats, corn, rye, barley, sorghums, flaxseed, and soybeans under a Uniform Grain Storage Agreement (which commodities hereinafter referred to as "grain"),

(2) Rough rice under a Uniform Rice Storage Agreement,

(3) Milled rice under a Milled Rice Storage Agreement,

(4) Dry Edible Beans under a Bean Storage Agreement, and

(5) Seed under a Seed Storage Agreement, which are owned by CCC or held by CCC as security for price support loans.

This subpart is not applicable to grain, rough and milled rice, dry edible beans, and seed purchased in store for prompt shipment or to handling operations of a temporary nature.

(b) Copies of the CCC storage contract or agreement and other forms required for obtaining approval under this subpart may be obtained from the Kansas City Commodity Office, U.S. Department of Agriculture, Post Office Box 8377, Shawnee Mission, Kansas 66208 (hereinafter referred to as the "KCCO").

(c) A warehouse must be approved by KCCO and a storage contract or agreement must be in effect between CCC and the warehouseman before CCC will use such warehouse. The approval of a warehouse or the entering into of a storage contract or agreement does not constitute a commitment that CCC will use the warehouse, and no official or employee of the U.S. Department of Agriculture is authorized to make any such commitment.

(d) A warehouseman, when applying for approval under this subpart, shall submit to CCC at KCCO:

(1) A completed Form CCC–24, "Application for Approval of Warehouse for Grain, Rice, Dry Edible Beans, and Seed", and a completed Form CCC–24–1, "Supplement to Application for Approval of Warehouse for Grain, Rice, Dry Edible Beans, and Seed",

(2) A current financial statement on Form TW–51, "Financial Statement", supported by such supplemental schedules as CCC may request. Such statement shall show the financial condition of the warehouseman as of a date not earlier than ninety (90) days prior to the date of the warehouseman's application, or such other date as CCC may prescribe. Additional financial statements shall be furnished annually and at such other times as CCC may require. CCC reserves the right to require that financial statements prepared by the warehouseman or by a public accountant shall be examined by an independent certified public accountant in accordance with generally accepted auditing standards if CCC is unable to reconcile the information furnished by the warehouseman on the Form TW–51.

Only one financial statement is required for a chain of warehouses owned or operated by a single business entity, and

(3) Evidence that the warehouseman is licensed by the appropriate licensing authority as required under § 1421.5552(a)(2) and such other documents or information as CCC may require.

§ 1421.5552 Basic standards.

Unless otherwise provided in this subpart, each warehouseman and each of the warehouses owned or operated by such warehouseman for which CCC approval is sought for the storage or handling of CCC owned or loan commodities shall meet the following standards:

(a) The warehouseman shall:

(1) Be an individual, partnership, corporation, association, or other legal entity engaged in the business of storing or handling for hire, or both, the applicable commodity. The warehouseman, if a corporation, shall be authorized by its charter to engage in such business,

(2) Have a current and valid license for the kind of storage operation for which the warehouseman seeks

approval if such a license is required by State or local laws or regulations,

(3) Have a net worth which is the greater of $25,000 or the amount which results from multiplying the maximum storage capacity of the warehouse (the total quantity of the commodity involved which the warehouse can accommodate when stored in the customary manner) times ten (10) cents per bushel in the case of grain, forty (40) cents per hundredweight in the case of rough rice, seventy (70) cents per hundredweight in the case of milled rice, and fifty (50) cents per hundredweight in the case of dry edible beans, and in the case of seed, the net worth shall be equal at least to the product obtained by multiplying the estimated total number of pounds of seed to be stored times six (6) cents per pound. The net worth need not exceed $250,000. If the calculated net worth exceeds $25,000, the warehouseman may satisfy any deficiency in net worth between the $25,000 minimum requirement and such calculated net worth by furnishing bonds (or acceptable substitute security) meeting the requirements of § 1421.5553,

(4) Have available sufficient funds to meet ordinary operating expenses,

(5) Have satisfactorily corrected upon request by CCC, any deficiencies in the performance of any storage contract or agreement with CCC,

(6) Maintain accurate and complete inventory and operating records,

(7) Use only prenumbered warehouse receipts and scale tickets,

(8) Have available at the warehouse adequate and operable firefighting equipment for the type of warehouse and applicable stored commodity, and

(9) Have a work force and equipment available to complete the load out within approximately thirty (30) working days of that quantity of grain for which the warehouse is or may be approved under a Uniform Grain Storage Agreement and within approximately ninety (90) working days of that quantity of the commodity for which the warehouse is or may be approved under a Uniform Rice Storage Agreement, a Milled Rice Storage Agreement, a Bean Storage Agreement, or a Seed Storage Agreement. The loadout capacity of any of these warehouses need not exceed the equivalent of 200 railroad cars per day.

(b) The warehouseman, officials, or supervisory employees of the warehouseman in charge of the warehouse operations shall have the necessary experience, organization, technical qualifications, and skills in the warehousing business regarding the applicable commodities to enable them to provide proper storage and handling services.

(c) Warehouseman, officials, and each of the supervisory employees of the warehouseman in charge of the warehouse operations shall:

(1) Have a satisfactory record of integrity, judgment, and performance, and

(2) Be neither suspended nor debarred under CCC's suspension and debarment regulations, 7 CFR Part 1407 for any of the causes set forth in § 1407.5 thereof.

(d) The warehouse shall:

(1) Be of sound construction, in good state of repair, and adequately equipped to receive, handle, store, preserve, and deliver the applicable commodity,

(2) Be under the control of the contracting warehouseman at all times, and

(3) Not be subject to greater than normal risk of fire, flood, or other hazards.

§ 1421.5553 Bonding requirements for net worth.

A bond furnished by a warehouseman under this subpart must meet the following requirements:

(a) Such bond shall be executed by a surety which:

(1) Has been approved by the U.S. Treasury Department, and

(2) Maintains an officer or representative authorized to accept service of legal process in the State where the warehouse is located.

(b) Such bond shall be on Form CCC-33, "Warehouseman's Bond", except that a bond furnished under State law (statutory bond) or under operational rules of nongovernmental supervisory agencies may be accepted in an equivalent amount as a substitute for a bond running directly to CCC if:

(1) CCC determines that such bond provides adequate protection to CCC,

(2) It has been executed by a surety specified in paragraph (a) of this section or has a blanket rider and endorsement executed by such a surety with the liability of the surety under such rider or endorsement being the same as that of the surety under the original bond, and

(3) It is noncancellable for not less than ninety (90) days or includes a rider providing for not less than ninety (90) days' notice to CCC before cancellation. Excess coverage on a substitute bond for one warehouse will not be accepted or applied by CCC against insufficient bond coverage on other warehouses.

(c) Cash and negotiable securities offered by a warehouseman may be accepted by CCC in lieu of the equivalent amount of required bond coverage. Any such cash or negotiable securities accepted by CCC will be returned to the warehouseman when the period for which coverage was required has ended and there appears to CCC to be no liability under the storage contract or agreement.

(d) A legal liability insurance policy may be accepted by CCC in lieu of the required amount of bond coverage provided such policy contains a clause or rider making the policy payable to CCC, CCC determines that it affords protection equivalent to a bond, and the Office of the General Counsel, U.S. Department of Agriculture, approves it for legal sufficiency.

§ 1421.5554 Examination of warehouses.

Except as otherwise provided in this subpart, a warehouse must be examined by a person designated by CCC before it may be approved by CCC for the storage or handling of commodities and periodically thereafter to determine its compliance with CCC's standards and requirements.

§ 1421.5555 Exceptions.

Notwithstanding any other provisions of this subpart:

(a) The financial, bond, and original and periodic warehouse examination provisions of this subpart do not apply to any warehouseman approved or applying for approval for the storage and handling of commodities under CCC programs if the warehouse is licensed under the U.S. Warehouse Act for such commodities but a special examination shall be made of such warehouse whenever CCC determines such action is necessary.

(b) A Certificate of Competency issued by the Small Business Administration for a warehouseman will be accepted by CCC as establishing conformance by the warehouseman with the standards prescribed in § 1421.5552(a), (1), (3), (4), and (9); (b); and (d); and the warehouseman will not be required to furnish bond coverage for a deficiency in net worth.

(c) A warehouseman who has a net worth of at least $25,000 but who fails, or whose warehouse fails, to meet one or more of the other standards of this subpart may be approved if:

(1) CCC determines that the warehouse services are needed and the warehouse storage and handling conditions provide satisfactory protection for the commodity, and

(2) The warehouseman furnishes such additional bond coverage (or cash or acceptable negotiable securities or legal liability insurance policy) as may be prescribed by CCC.

§ 1421.5556 Approval of warehouses; requests for reconsideration.

(a) CCC will approve a warehouse if it determines that the warehouse meets the standards set out in this subpart. CCC will send a notice of approval to the warehouseman. Approval under this subpart, however, does not relieve the warehouseman of the responsibility for performing the warehouseman's obligations under any contract or agreement with CCC or any other agency of the United States. An approval will remain in effect until the storage contract or agreement expires or is otherwise terminated. CCC reserves the right to withdraw approval for good cause shown.

(b) Except as otherwise provided in this subpart:

(1) CCC will not approve the warehouse if CCC determines that the warehouse does not meet the standards set out in this subpart,

(2) CCC may withdraw its approval of a warehouse if CCC determines that such warehouse ceases to meet such standards or if the warehouseman fails to perform the warehouseman's obligations under the CCC storage contract or agreement, and

(3) CCC will send any notice of rejection or withdrawal of approval to the warehouseman. This notice will state the cause(s) for such action. Unless the warehouseman or any officials or supervisory employees of the warehouseman is suspended or debarred as provided in 7 CFR § 1407, CCC will approve or reinstate the approval of the warehouse if the warehouseman establishes that the causes for CCC's disapproval have been remedied.

(c) If rejection or withdrawal of approval by CCC is due to the warehouseman's failure to meet the standards set forth:

(1) In § 1421.5552, other than the standard set forth in paragraph (c)(2), thereof the warehouseman may at any time after receiving notice of such action request reconsideration of the action and present to the Director of the KCCO orally or in writing, information in support of such request. The Director shall consider such information in making a determination and notify the warehouseman in writing of such determination. The warehouseman may, if dissatisfied with the Director's determination, obtain a review of the determination and an informal hearing thereon by filing an appeal with the Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service (hereinafter referred to as "ASCS"). The time for filing appeals, forms for requesting an appeal, nature of the informal hearing, determination, and reopening of the hearing shall be as prescribed in the ASCS regulations governing appeals, 7 CFR Part 780. When appealing under such regulations, the warehouseman shall be considered a "participant", and

(2) In § 1421.5552(c)(2), the warehouseman's rights of appeal and hearing shall be as provided in CCC's regulations governing suspension and debarment, 7 CFR Part 1407. After expiration of any period of suspension or debarment, a warehouseman may, at any time, apply for approval under this subpart.

§ 1421.5557 Exemption from requirements.

(a) If warehousing services in any area cannot be secured under the provisions of this subpart and no reasonable and economical alternative is available for securing such services for commodities under CCC programs, the President or Executive Vice President, CCC, may exempt, in writing, applicants in such area from one or more of the standards of this subpart and may establish such other standards as are considered necessary to safeguard satisfactorily the interests of CCC. Warehousemen who are currently under contract with CCC will be required to meet the terms and conditions of these regulations at the time of renewal of their contract.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations", and has been classified "significant". An approved Final Impact Statement is available from Mr. Eugene A. Williams, ASCS, (202) 447-7335.

Signed at Washington, D.C. on November 13, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-36076 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-05-M

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7 CFR Part 1423

Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey and Bulk Oils

AGENCY: Commodity Credit Corporation, United States Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule sets forth in the Standards for Approval of Dry and Cold Storage Warehouses for processed Commodities, Extracted Honey, and Bulk Oils (hereinafter referred to as "Standards") the requirements which must be met and the procedures which must be followed by a warehouseman in the United States or Puerto Rico who desires the approval of the Commodity Credit Corporation (hereinafter referred to as "CCC") of warehouse(s) for the storage and handling of CCC-owned or -loan honey and bulk oils or dry and refrigerated agricultural commodities under the Processed Commodities Storage Agreement. The rule establishes: (1) an increase in the minimum net worth requirement from $10,000 to $25,000; (2) a $250,000 maximum net worth; and, (3) an increase in the commodity value factor to be used in calculating the net worth requirement. Additional changes have been made to obtain uniformity and improve clarity, understanding and general administration of the Standards. The rule also incorporates the Standards for Approval of Warehouses for Extracted Honey, Bulk Oils, and Processed Agricultural Commodities by revising and recodifying the regulations which previously appeared in the **Federal Register** as 7 CFR Part 1424, Subpart—Standards for Approval of Bulk Oil Warehouses published on February 18, 1976 (41 FR 7384); 7 CFR Part 1434, Subpart—Standards for Approval of Warehouses for Extracted Honey published on April 12, 1976 (41 FR 15398); and revises 7 CFR 1423, Subpart—Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities published on February 11, 1976 (41 FR 6059).

The revision incorporates changes in the regulations which are necessary in order to obtain uniformity and clarity in the Standards. The rule would affect all warehousemen who make application to handle and store CCC-owned and -loan honey and bulk oil or dry and refrigerated agricultural commodities under the Processed Commodities Storage Agreement. The rule would not affect warehousemen currently under contract with CCC until such times as their contracts are to be renewed.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene A. Williams, (ASCS), (202) 447-7335.

ADDRESS: Inventory Management Division, ASCS, U.S. Department of Agriculture, Room 5969-S, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: Section 4 of the CCC Charter Act, as amended, provides that CCC may enter into and carry out such contracts or agreements

as are necessary in the conduct of its business and may contract for the use, in accordance with the usual customs of trade and commerce, of plants and facilities for the physical handling, storage, processing, servicing, and transportation of the agricultural commodities subject to its control.

On April 3, 1979, there was published in the **Federal Register** (44 FR 19413–16) CCC's proposed revision of the Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities. Interested persons were asked to comment on the proposed rule. A total of five responses were received. Two were from Federal Government agencies, and one each from an association of insurance companies, an institute of public accountants, and a cotton warehouseman.

All responses agreed in principle with the proposed rule or some variation thereof. One Federal Government agency suggested a method of calculation to be used in determining the net worth, which is adopted in the revised "Standard".

The insurance association suggested that a clause be added to § 1423.3, "Bonding Requirements for Net Worth," which would state that the bond was not cumulative regardless of the number of years it was in force, and that the maximum liability of the surety was the face amount of the bond including any endorsements thereto. The association stated that they would always know what their liability was with respect to this type of clause. Under a cumulative bonding liability, however, insurers are unsure of their liability with regard to potential claims, and underwriting, was, therefore, made more difficult.

The suggestion of the insurance association was rejected because bonding liability on a continuous basis provides more comprehensive security for CCC. There could be a situation, for example, where a warehouseman with a bond of $100,000 per year may be liable for conversion of $75,000 the first year; $50,000 the second year; and $50,000 the last year. The revision suggested by the insurance association would limit the warehouseman's potential liability to only $50,000 in the last year. Under CCC's present application of the bonding standard, which shall be continued, CCC could potentially collect damages to the maximum of $100,000 per year for the duration of the bond. Thus, under the example cited above, the warehouseman and the insurer would be potentially subject to $175,000 in claims by CCC.

Other suggestions were received from the two Federal Government agencies and the institute of public accountants for changes to improve the clarity and understanding of the Standards. These suggestions will be adopted without requesting further comment, since they simply enhance the interpretation of some of the provisions and do not affect the substantive changes outlined in the proposed rule.

Final Rule

Accordingly, 7 CFR Part 1424, Subpart-Standards for Approval of Bulk Oil Warehouses and 7 CFR Part 1434, Subpart-Standards for Approval of Warehouses for Extracted Honey are revised and recodified in 7 CFR Part 1423, which is revised to read as follows:

PART 1423—PROCESSED AGRICULTURAL COMMODITIES

Subpart—Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils

Sec.

1423.1 General statement and administration.
1423.2 Basic standards.
1423.3 Bonding requirements for net worth.
1423.4 Examination of warehouses.
1423.5 Exceptions.
1423.6 Approval of warehouses; requests for reconsideration.
1423.7 Exemption from requirements.

Authority: Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b).

Subpart—Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils

§ 1423.1 General statement and administration.

(a) This subpart prescribes the requirements which must be met and the procedures which must be followed by a warehouseman in the United States or Puerto Rico who desires the approval by the Commodity Credit Corporation (hereinafter referred to as "CCC") of warehouse(s) for the storage and handling of:

(1) Dry or refrigerated processed agricultural commodities under a Processed Commodities Storage Agreement (hereinafter referred to as "processed commodities"),

(2) Bulk oils, under a Contract or Agreement for Tank Storage, which are owned by CCC or held by CCC as collateral for price support loans, and

(3) Extracted Honey (hereinafter referred to as "honey") under a Honey Storage Agreement, either in bulk or in containers meeting specifications in the applicable honey price support regulations, which is owned by CCC or held by CCC as security for price support loans. This subpart shall not apply to processed commodities, extracted honey, and bulk oils purchased in store by CCC for prompt shipment or to handling of commodities.

(b) Copies of the CCC storage contract or agreement and other forms required for obtaining approval under this subpart may be obtained from the Kansas City Commodity Office, U.S. Department of Agriculture, Post Office Box 8377, Shawnee Mission, Kansas 66208 (hereinafter referred to as "KCCO").

(c) A warehouse must be approved by KCCO and a storage contract or agreement must be in effect between CCC and the warehouseman before CCC will use such warehouse. The approval of a warehouse or the entering into of a storage contract or agreement does not constitute a commitment that CCC will use the warehouse, and no official or employee of the U.S. Department of Agriculture is authorized to make any such commitment.

(d) A warehouseman when applying for approval under this subpart, shall submit to CCC at KCCO:

(1) A completed Form CCC–560, "Application for Approval of Warehouse (Processed Commodities)", or Form CCC–513, "Application for Approval of Tank Farm", or Form CCC–55, "Application for Approval of Warehouse for Honey Storage Contract", whichever is applicable,

(2) A current financial statement on Form TW–51, "Financial Statement", supported by such supplemental schedules as CCC may request. Such statement shows the warehouseman's financial condition as of a date not earlier than ninety (90) days prior to the date of the warehouseman's application, or such other date as CCC may prescribe. Additional financial statements shall be furnished annually and at such other times as CCC may require. CCC reserves the right to require that financial statements prepared by the warehouseman or by a public accountant shall be examined by an independent certified public accountant in accordance with generally accepted auditing standards if CCC is unable to reconcile the information furnished by the warehouseman on the Form TW–51. Only one financial statement is required for a chain of warehouses owned or operated by a single business entity,

(3) Copies of the warehouseman's tariff and any changes thereto, and

(4) Evidence that the warehouseman is licensed by the appropriate licensing authority as required under § 1423.2(a)(2) and such other documents or information as CCC may require.

§ 1423.2 Basic standard.

Unless otherwise provided in this subpart, each warehouseman and each of the warehouses owned or operated by such warehouseman for which CCC approval is sought for the storage or handling of CCC-owned or loan commodities shall meet the following standards:

(a) The warehouseman shall:

(1) Be an individual, partnership, corporation, association, or other legal entity engaged in the business of storing or handling for hire, or both, the applicable commodity. The warehouseman, if a corporation, shall be authorized by its charter to engage in such business.

(2) Have a current and valid license for the kind of storage operation for which the warehouseman seeks approval if such a license is required by State or local laws or regulations.

(3) Have a net worth which is the greater of $25,000 or (i) for dairy and other processed commodities (other than those shown in (ii) of this subsection 1423.2(a)(3)), the amount which results from multiplying five (5) percent of the current purchase price, times the quantity of the commodity to be stored; (ii) for honey, sugar and bulk oils, the amount which results from multiplying the storage capacity of the flat warehouse space available to CCC or the maximum capacity of the bulk tank(s), whichever is applicable, times five (5) percent of the current loan value for honey and sugar and five (5) percent of the current market value for bulk oils. The net worth need not exceed $250,000. If the calculated net worth exceeds $25,000, the warehouseman may satisfy any deficiency in net worth between the $25,000 minimum requirement and such calculated net worth by furnishing bonds (or acceptable substitute security) meeting the requirements of § 1423.3,

(4) Have available sufficient funds to meet ordinary operating expenses,

(5) Have satisfactory corrected, upon request by CCC, any deficiencies in the performance of any storage contract or agreement with CCC,

(6) Use only warehouse receipts or such other documents as CCC may prescribe,

(7) Maintain accurate and complete inventory and operating records,

(8) Have available at the warehouse adequate and operable firefighting equipment for the type of warehouse and applicable stored commodity, and

(9) Have a work force and equipment available to complete loadout as stated below or as CCC may prescribe:

(i) Forty-five (45) working days of the total quantity of all honey and processed commodities stored for CCC,

(ii) Seventy-five (75) working days of that quantity of bulk oils for which the warehouse is or may be approved under a contract with CCC.

(b) The warehouseman, officials, or supervisory employees of the warehouseman in charge of the warehouse operations shall have the necessary experience, organization technical qualifications, and skills in the warehousing business regarding the applicable commodity to enable them to provide proper storage and handling services.

(c) Warehouseman, officials, and each of the supervisory employees of the warehouseman in charge of the warehouse operations shall:

(1) Have a satisfactory record of integrity, judgment, and performance, and

(2) Be neither suspended nor debarred under CCC's suspension and debarment regulations, 7 CFR Part 1407, for any of the caues set forth in § 1407.5 thereof.

(d) The warehouse shall:

(1) Be of sound construction, in good state of repair, and adequately equipped to receive, handle, store, preserve, and deliver the applicable commodity,

(2) Be under the control of the contracting warehouseman at all times, and

(3) Not be subject to greater than normal risk of fire, flood or other hazards.

§ 1423.3 Bonding requirements for net worth.

A bond furnished by a warehouseman under this subpart must meet the following requirements:

(a) Such bond shall be executed by a surety which:

(1) Has been approved by the U.S. Treasury Department, and

(2) Maintains an officer or representative authorized to accept service of legal process in the State where the warehouse is located.

(b) Such bond shall be on Form CCC-33, "Warehouseman's Bond", except that a bond furnished under State law (statutory bond) or under operational rules of nongovernmental supervisory agencies may be accepted in an equivalent amount as a substitute for a bond running directly to CCC if:

(1) CCC determines that such bond provides adequate protection to CCC.

(2) It has been executed by a surety specified in paragraph (a) of this section or has a blanket rider and endorsement executed by such a surety with the liability of the surety under such rider or endorsement being the same as that of the surety under the original bond, and

(3) It is noncancellable for not less than one hundred twenty (120) days or includes a rider providing for not less than one hundred twenty (120) days' notice to CCC before cancellation. Excess coverage on a substitute bond for one warehouse will not be accepted or applied by CCC against insufficient bond coverage on other warehouses.

(c) Cash and negotiable securities offered by a warehouseman may be accepted by CCC in lieu of the equivalent amount of required bond coverage. Any such cash or negotiable securities accepted by CCC will be returned to the warehouseman when the period for which coverage was required has ended and there appears to CCC to be no liability under the storage contract or agreement.

(d) A legal liability insurance policy may be accepted by CCC in lieu of the required amount of bond coverage provided such policy contains a clause or rider making the policy payable to CCC, CCC determines that it affords protection equivalent to a bond, and the Office of the General Counsel, U.S. Department of Agriculture, approves it for legal sufficiency.

§ 1423.4 Examination of warehouses.

Except as otherwise provided in this subpart a warehouse must be examined by a person designated by CCC before it may be approved by CCC for the storage or handling of commodities and periodically thereafter to determine its compliance with CCC's standards and requirements.

§ 1423.5 Exceptions.

Notwithstanding any other provisions of this subpart:

(a) The financial, bond, and original and periodic warehouse examination provisions of this subpart do not apply to any warehouseman approved or applying for approval for the storage and handling of commodities under CCC programs if the warehouse is licensed under the U.S. Warehouse Act for such commodities, but a special examination shall be made of such warehouse whenever CCC determines such action is necessary.

(b) A Certificate of Competency issued by the Small Business Administration for a warehouseman will be accepted by CCC as establishing conformance by the warehouseman with the standards prescribed in § 1423.2 (a) (1), (3), (4), and (9); (b); and (d), and the warehouseman will not be required to furnish bond coverage for a deficiency in net worth.

(c) A warehouseman who has a net worth of at least $25,000 but who fails, or whose warehouse fails, to meet one or more of the other standards of this subpart may be approved if:

(1) CCC determines that the warehouse services are needed and the warehouse storage and handling conditions provide satisfactory protection for the commodity, and

(2) The warehouseman furnishes such additional bond coverage (or cash or acceptable negotiable securities or legal liability insurance policy) as may be prescribed by CCC.

§ 1423.6 Approval of warehouses; requests for reconsideration.

(a) CCC will approve a warehouse if it determines that the warehouse meets the standards set out in this subpart. CCC will send a notice of approval to the warehouseman. Approval under this subpart, however, does not relieve the warehouseman of the responsibility for performing the warehouseman's obligations under any contract or agreement with CCC or any other agency of the United States. An approval will remain in effect until the storage contract or agreement expires or is otherwise terminated. CCC reserves the right to withdraw approval for good cause shown.

(b) Except as otherwise provided in this subpart:

(1) CCC will not approve the warehouse if CCC determines that the warehouse does not meet the standards set out in this subpart,

(2) CCC may withdraw its approval of a warehouse if CCC determines that such warehouse ceases to meet such standards or if the warehouseman fails to perform the warehouseman's obligations under the CCC storage contract or agreement, and

(3) CCC will send any notice of rejection or withdrawal of approval to th warehouseman. The notice will state the cause(s) for such action. Unless the warehouseman or any officials or supervisory employees of the warehouseman are suspended or debarred as provided in 7 CFR § 1407, CCC will approve or reinstate the approval of the warehouse if the warehouseman establishes that the causes for CCC's disapproval have been remedied.

(c) If rejection or withdrawal of approval by CCC is due to failure to meet the standards set forth:

(1) In § 1423.2, other than the standard set forth in paragraph (c)(2) thereof, the warehouseman may at any time after receiving notice of such action request reconsideration of the action and present to the Director of KCCO, orally or in writing, information in support of such request. The Director shall consider such information in making a determination and shall notify the warehouseman in writing of such determination. The warehouseman may, if dissatisfied with the Director's determination, obtain a review of the determination and an informal hearing thereon by filing an appeal with the Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service (hereinafter referred to as "ASCS"). The time for filing appeals, forms for requesting an appeal, nature of the informal hearing, determination, and reopening of the hearing shall be as prescribed in the ASCS regulations, governing appeals, 7 CFR Part 780. When appealing under such regulations, the warehouseman shall be considered a "participant", and

(2) In § 1423.2(c)(2), the warehouseman's rights of appeal and hearing shall be as provided in CCC's regulations governing suspension and debarment 7 CFR Part 1407. After expiration of any period of suspension or debarment, a warehouseman may, at any time, apply for approval under this subpart.

§ 1423.7 Exemption from requirements.

(a) If warehousing services in any area cannot be secured under the provisions of this subpart, and no reasonable and economical alternative is available for securing such services, the President or Executive Vice President, CCC, may exempt, in writing, applicants in such area from one or more of the standards of this subpart and may establish such other standards as are considered necessary to safeguard satisfactorily the interests of CCC.

(b) Warehousemen who are currently under contract with CCC will be required to meet the terms and conditions of these regulations at the time of renewal of their contract.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations", and has been classified "significant". An Approved Final Impact Statement is available from Mr. Eugene A. Williams, ASCS, (202) 447-7335.

Signed at Washington, D.C. on November 13, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-36078 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1427

[Cotton Loan Program Regs., Amdt. 2]

Cotton Price Support Program; Eligibility

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to add another eligibility requirement to the cotton price support program. This rule amends the program regulations governing warehouse stored cotton loans to limit excessive sampling of cotton effective for the 1980 and subsequent crops. This rule is necessary in order to prevent contamination of the cotton from outside sources and to prevent excessive quantities of cotton from being removed from bales.

EFFECTIVE DATE: November 23, 1979.

ADDRESS: Price Support and Loan Division, ASCS, USDA, Room 3752-South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Dalton Ustynik, ASCS, (202) 447-6733.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking regarding a limitation on bale sampling was published in the **Federal Register** on August 10, 1979 (44 FR 47096).

Nine responses were received, eight in favor of the proposed rule and one opposed. Two comments also recommended that the language be clarified to provide that the sample may be broken in half or split lengthwise. This language will be adopted. One respondent recommended that the language be adopted to provide that the sample be broken in half or split horizontally. This language was not adopted since the regulation adopted will accomplish the same purpose.

Final Rule

Accordingly, 7 CFR Part 1427 is amended by adding a new paragraph (p) to § 1427.6, effective for 1980 and subsequent crops of cotton, to read as follows:

§ 1427.6 Eligible cotton.

* * * * *

(p) Each bale of upland cotton sampled by the warehouseman upon initial receipt which has not been sampled by the ginner must not show more than one sample hole on each side of the bale. If more than one sample is desired when the bale is received by the warehouseman, the sample shall be cut across the width of the bale, broken in half or split lengthwise, and otherwise drawn in accordance with AMS

dimension and weight requirements. This requirement will not prohibit sampling of the cotton at a later date if authorized by the producer.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c);

Note.—This proposal has been determined not significant under USDA criteria for implementing Executive Order 12044, "Improving Government Regulations". A Final Impact Statement is available from Dalton Ustynik, ASCS, (202) 447–6733.

Signed at Washington, D.C., on November 13, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79–36092 Filed 11–21–79; 8:45 am]

BILLING CODE 3410–05–M

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7 CFR Part 1427

Standards for Approval of Warehouses for Cotton or Cotton Linters

AGENCY: Commodity Credit Corporation, United States Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule sets forth in the Standards for Approval of Warehouses for Cotton or Cotton Linters (hereinafter referred to as "Standards") the requirements which must be met and the procedures which must be followed by a warehouseman in the United States or Puerto Rico who desires approval by the Commodity Credit Corporation (hereinafter refererred to as "CCC") of warehouse(s) for the storage and handling of CCC-owned or -loan cotton or cotton linters under the Cotton Storage Agreement. The rule establishes: (1) an increase in the minimum net worth requirement from $10,000 to $25,000; (2) a maximum net worth of $250,000; and, (3) an increase in the commodity value factor to be used in calculating the net worth requirement from $5 to $10 per bale. Additional changes have been made to improve clarity, understanding and general administration of the Standards.

This rule revises the regulations which previously appeared in the **Federal Register** as 7 CFR Part 1427, Subpart—Standards for Approval of Warehouses for Cotton or Cotton Linters published on July 1, 1976 (41 FR 27078).

This revision incorporates changes in the regulations which are necessary in order to obtain uniformity and clarity in the Standards. The rule would affect all warehousemen who make application to handle and store CCC-owned and -loan cotton or cotton linters under the Cotton Storage Agreement. The rule would not affect warehousemen currently under contract with CCC until such time as their contracts are to be renewed.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene A. Williams, (ASCS), (202) 447–7335.

ADDRESS: Inventory Management Division, ASCS, U.S. Department of Agriculture, Room 5969–S, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: Section 4 of the CCC Charter Act, as amended, provides that CCC may enter into and carry out such contracts or agreements as are necessary in the conduct of its business and may contract for the use, in accordance with the usual customs of trade and commerce, of plants and facilities for the physical handling, storage, processing, servicing, and transportation of agricultural commodities subject to its control.

On April 3, 1979, there was published in the **Federal Register** (44 FR 19416–19) CCC's proposed revision of the Standards for Approval of Warehouses for Cotton or Cotton Linters. Interested persons were asked to comment on the proposed rule. A total of five responses were received. Two were from Federal Government agencies, and one each from an association of insurance companies, an institute of public accountants, and a cotton warehouseman.

Of all the responses, all but one agreed in principle with the proposed rule or some variation thereof. The one dissenting comment, from a cotton warehouseman, expressed objection to the net worth provisions as proposed. The warehouseman contended that the $25,000 minimum net worth requirement might reduce the number of approved warehousemen and thus decrease available warehouse space to a critical level in some areas. The warehouseman recommended that the $25,000 minimum net worth requirement should be modified so that any deficit in net worth could be made up by additional bond requirements in order to enable smaller warehouses to be eligible to store CCC-loan cotton.

Implementation of the $25,000 minimum net worth requirement would not be expected to result in a critical shortage of warehouse space as suggested by the warehouseman. The regulations provide that if warehousing services in any area cannot be secured under the provisions of the Standard for Approval, and no reasonable and economical alternative is available for securing such services for commodities under CCC programs, CCC may exempt applicants in such areas from one or more of the provisions of the Standard and may establish such other requirements as are necessary to safeguard satisfactorily the interests of CCC. With this authority, CCC may waive the net worth requirement for any warehouse where it is found to be necessary in order to carry out the price support and loan program.

One Federal Government agency suggested a higher commodity factor should be used in calculation of a minimum net worth, and a bond be furnished on the amount if the net worth was below $25,000.

The requirement of a minimum net worth of $25,000 was selected because it should improve storage security and reduce potential losses to depositors on commodities in store. Again, CCC can waive this requirement for those warehousemen unable to meet the $25,000 minimum net worth requirement if it is found to be necessary in order to carry out the price support and loan program.

The insurance association suggested that a clause be added to Section 1427.1083, "Bonding Requirements for Net Worth," which would state that the bond was not cumulative regardless of the number of years it was in force, and that the maximum liability of the surety was the face amount of the bond including any indorsements thereto. The association stated that they would always know what their liability was with respect to this type of clause. Under a cumulative bonding liability, however, insurers are unsure of their liability with regard to potential claims, and underwriting was, therefore, made more difficult.

The suggestion of the insurance association was rejected because bonding liability on a continuous basis provides more conprehensive security for CCC. There could be a situation, for example, where a warehouseman with a bond of $100,000 per year may be liable for conversion of $75,000 the first year; $50,000 the second year; and $50,000 the last year. The revision suggested by the insurance association would limit the warehouseman's potential liability to $50,000 in the last year. Under CCC's present application of the bonding standard, which shall be continued, CCC could potentially collect damages to the maximum of $100,000 per year for the duration of the bond. Thus, under the example cited above, the warehouseman and the insurer would be potentially subject to $175,000 in claims by CCC.

Other suggestions were received from two Federal Government agencies and the institute of public accountants for changes to improve the clarity and

understanding of the Standards. These suggestions will be adopted without requesting further comment, since they simply enhance the interpretation of some of the provisions and do not affect the substantive changes outlined in the proposed rule.

Final Rule

Accordingly, 7 CFR Part 1427 is revised to change §§ 1427.1081 through 1427.1087 to read as follows:

PART 1427—COTTON

Subpart—Standards for Approval of Warehouses for Cotton or Cotton Linters

Sec.

1427.1081 General statement and administration.
1427.1082 Basic Standards.
1427.1083 Bonding requirements for net worth.
1427.1084 Examination of warehouses.
1427.1085 Exceptions.
1427.1086 Approval of warehouses; requests for reconsideration.
1427.1087 Exemption from requirements.

Authority: Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b).

Subpart—Standards for Approval of Warehouses for Cotton or Cotton Linters

§ 1427.1081 General statement and administration.

(a) This subpart prescribes the requirements which must be met and the procedures which must be followed by a warehouseman in the United States or Puerto Rico who desires the approval by the Commodity Credit Corporation (hereinafter referred to as "CCC") of warehouse(s) for the storage and handling of cotton and cotton linters, under a Cotton Storage Agreement, which are owned by CCC or held by CCC as security for price support loans. This subpart is not applicable to cotton or cotton linters purchased in storage for prompt shipment or to handling operations of a temporary nature.

(b) Copies of the CCC storage agreement and other forms required for obtaining approval under this subpart may be obtained from the Kansas City Commodity Office, U.S. Department of Agriculture, Post Office Box 8377, Shawnee Mission, Kansas 66208 (hereinafter referred to as the "KCCO").

(c) A warehouse must be approved by the KCCO and a storage agreement must be in effect between CCC and the warehouseman before CCC will use such warehouse. The approval of a warehouse or the entering into of a storage agreement does not constitute a commitment that CCC will use the warehouse, and no official or employee of the U.S. Department of Agriculture is authorized to make any such commitment.

(d) A warehouseman, when applying for approval under this subpart shall submit to CCC at KCCO:

(1) A completed Form CCC–49, "Application for Approval of Warehouse for Storage of Cotton and/or Cotton Linters,"

(2) A current financial statement on Form TW–51, "Financial Statement", supported by such supplemental schedules as CCC may request. Such statement shall show the financial condition of the warehouseman as of a date not earlier than ninety (90) days prior to the date of the warehouseman's application, or such other date as CCC may prescribe. Additional financial statements shall be furnished annually and at such other times as CCC may require. CCC reserves the right to require that financial statements prepared by the warehouseman or by a public accountant shall be examined by an independent certified public accountant in accordance with generally accepted auditing standards if CCC is unable to reconcile the information furnished by the warehouseman on the Form TW–51. Only one financial statement is required for a chain of warehouses owned or operated by a single business entity,

(3) Evidence that the warehouseman is licensed by the appropriate licensing authority as required under § 1427.1082(a)(2) and such other documents or information as CCC may require,

(4) For warehouseman not operating under the U.S. Warehouse Act, a sample copy of the warehouseman's receipts and bale tags, and

(5) Evidence of applicable fire insurance rates.

§ 1427.1082 Basic standards.

Unless otherwise provided in this subpart, each warehouseman and each of the warehouses owned or operated by such warehouseman for which CCC approval is sought for the storage or handling of CCC-owned or -loan commodities shall meet the following standards:

(a) The warehouseman shall:

(1) Be an individual, partnership, corporation, association, or other legal entity engaged in the business of storing or handling for hire, or both, the applicable commodity. The warehouseman, if a corporation, shall be authorized by its charter to engage in such business,

(2) Have a current and valid license for the kind of storage operation for which the warehouseman seeks approval if such a license is required by State or local laws or regulations,

(3) Have a net worth which is the greater of $25,000 or the amount which results from multiplying the maximum storage capacity of the warehouse (the total number of bales of cotton or cotton linters which the warehouse can accommodate when stored in the customary manner) times ten (10) dollars per bale. The net worth need not exceed $250,000. If the calculated net worth exceeds $25,000, the warehouseman may satisfy any deficiency in net worth between the $25,000 minimum requirement and such calculated net worth by furnishing bond (or acceptable substitute security) meeting the requirements of § 1427.1083,

(4) Have available sufficient funds to meet ordinary operating expenses,

(5) Have satisfactorily corrected, upon request by CCC, any deficiencies in the performance of any storage agreement with CCC,

(6) Maintain accurate and complete inventory and operating records,

(7) Use only card type warehouse receipts which are pre-numbered and pre-punched or such other document as CCC may prescribe,

(8) Have available at the warehouse adequate and operable firefighting equipment for the type of warehouse and applicable stored commodity, and

(9) Have a work force and equipment available to provide adequate storage and handling service.

(b) The warehouseman, officials, or supervisory employees of the warehouseman in charge of the warehouse operation shall have the necessary experience, organization, technical qualifications, and skills in the warehousing business regarding the applicable commodities to enable them to provide proper storage and handling services.

(c) Warehouseman, officials and each of the supervisory employees of the warehouseman in charge of the warehouse operation shall:

(1) Have a satisfactory record of integrity, judgment, and performance, and

(2) Be neither suspended nor debarred under CCC's suspension and debarment regulations, 7 CFR Part 1407 for any of the causes set forth in § 1407.5 thereof.

(d) The warehouse shall:

(1) Be of sound construction, in good state of repair, and adequately equipped to receive, handle, store, preserve, and deliver the applicable commodity,

(2) Be under the control of the contracting warehouseman at all times, and

(3) Not be subject to greater than normal risk of fire, flood, or other hazards.

§ 1427.1083 Bonding requirements for net worth.

A bond furnished by a warehouseman under this subpart must meet the following requirements:

(a) Such bond shall be executed by a surety which:

(1) Has been approved by the U.S. Treasury Department, and

(2) Maintains an officer or representative authorized to accept service of legal process and in the State where the warehouse is located.

(b) Such bond shall be on Form CCC–33, "Warehouseman's Bond", except that a bond furnished under State law (statutory bond) or under operational rules of nongovernmental supervisory agencies may be accepted in an equivalent amount as a substitute for a bond running directly to CCC if:

(1) CCC determines that such bond provides adequate protection to CCC.

(2) It has been executed by a surety specified in paragraph (a) of this section or has a blanket rider and endorsement executed by such a surety with the liability of the surety under such rider or endorsement being the same as that of the surety under the original bond, and

(3) It is noncancellable for not less than ninety (90) days or includes a rider providing for not less than ninety (90) days' notice to CCC before cancellation. Excess coverage on a substitute bond for one warehouse will not be accepted or applied by CCC against insufficient bond coverage on other warehouses.

(c) Cash and negotiable securities offered by a warehouseman may be accepted by CCC in lieu of the equivalent amount of required bond coverage. Any such cash or negotiable securities accepted by CCC will be returned to the warehouseman when the period for which coverage was required has ended and there appears to CCC to be no liability under the storage agreement.

(d) A legal liability insurance policy may be accepted by CCC in lieu of the required amount of bond coverage provided such policy contains a clause or rider making the policy payable to CCC, CCC determines that it affords protection equivalent to a bond, and the Office of the General Counsel, U.S. Department of Agriculture, approves it for legal sufficiency.

§ 1427.1084 Examination of warehouses.

Except as otherwise provided in this subpart, a warehouse must be examined by a person designated by CCC before it may be approved by CCC for the storage and handling of the commodity and periodically thereafter to determine its compliance with CCC's standards and requirements.

§ 1427.1085 Exceptions.

Notwithstanding any other provisions of this report:

(a) The financial bond and original and periodic warehouse examination provisions of this subpart do not apply to any warehouseman approved or applying for approval for the storage and handling of cotton or cotton linters under CCC programs if the warehouse is licensed under the U.S. Warehouse Act for such commodity but a special examination shall be made of such warehouse whenever CCC determines such action is necessary.

(b) A Certificate of Competency issued by the Small Business Administration for a warehouseman will be accepted by CCC as establishing conformance by the warehouseman with the standards prescribed in § 1427.1082(a) (1), (3), (4), and (9); (b); and (d), and the warehouseman will not be required to furnish bond coverage for deficiency in net worth.

(c) A warehouseman who has a net worth of at least $25,000 but who fails, or whose warehouse fails, to meet one or more of the other standards of this subpart may be approved if:

(1) CCC determines that the warehouse services are needed and the warehouse storage and handling conditions provide satisfactory protection for the commodity,

(2) The warehouseman furnishes such additional bond coverage (or cash or acceptable negotiable securities or legal liability insurance policy) as may be prescribed by CCC.

(d) The bond requirements, and, at the discretion of the KCCO, the financial, warehouse receipt, and bale tag requirements, of this subpart are not applicable to any warehouseman approved or applying for approval for the storage and handling of cotton or cotton linters under CCC programs if the warehouse is operated by the State of South Carolina Department of Agriculture.

§ 1427.1086 Approval of warehouses, requests for reconsideration.

(a) CCC will approve a warehouse if it determines that the warehouse meets the standards set out in this subpart. CCC will send a notice of approval to the warehouseman. Approval under this subpart, however, does not relieve the warehouseman of the responsibility for performing the warehouseman's obligations under any agreement with CCC or any other agency of the United States. An approval will remain in effect until the storage agreement expires or is otherwise terminated. CCC reserves the right to withdraw approval for good cause shown.

(b) Except as otherwise provided in this subpart:

(1) CCC will not approve the warehouse if CCC determines that the warehouse does not meet the standards set out in this subpart,

(2) CCC may withdraw its approval of a warehouse if CCC determines that such warehouse ceases to meet such standards or if the warehouseman fails to perform the warehouseman's obligations under the CCC storage agreement, and

(3) CCC will send any notice of rejection or withdrawal of approval to the warehouseman. The notice will state the cause(s) for such action. Unless the warehouseman or any officials or supervisory employees of the warehouseman are suspended or debarred as provided in 7 CFR § 1407, CCC will approve, or reinstate the approval of, the warehouse if the warehouseman establishes that the causes for CCC's disapproval have been remedied.

(c) If rejection or withdrawal of approval by CCC is due to the warehouseman's failure to meet the standards set forth:

(1) In § 1427.1082, other than the standard set forth in paragraph (c)(2) thereof, the warehouseman may, at any time after receiving notice of such action, request reconsideration of the action and present to the Director of the KCCO, orally or in writing, information in support of such request. The Director shall consider such information in making a determination and notify the warehouseman in writing of such determination. The warehouseman may, if dissatisfied with the Director's determination, obtain a review of the determination and an informal hearing thereon by filing an appeal with the Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service (hereinafter referred to as "ASCS"). The time of filing appeals, forms for requesting an appeal, nature of the informal hearing, determination, and reopening of the hearing shall be prescribed in the ASCS regulations governing appeals, 7 CFR Part 780. When appealing under such regulations, the warehouseman shall be considered a "participant", and

(2) In § 1427.1082(c)(2), the warehouseman's rights of appeal and hearing shall be as provided in CCC's regulations governing suspension and debarment, 7 CFR Part 1407. After expiration of a period of suspension or debarment, a warehouseman may, at any time, apply for approval under this subpart.

§ 1427.1087 Exemption from requirements.

(a) If warehousing services in any area cannot be secured under the provisions of this subpart and no reasonable and economical alternative is available for securing such services for commodities under CCC programs, the President or Executive Vice President, CCC may exempt, in writing, applicants in such area from one or more of the standards of this subpart and may establish such other standards as are considered necessary to safeguard satisfactorily the interests of CCC.

(b) Warehousemen who are currently under contract with CCC will be required to meet the terms and conditions of these regulations at the time of renewal of their contract. Warehousemen approved under prior regulations may be required to submit a new TW–51 "Financial Statement" at renewal time or as may be prescribed by CCC for approval under this revision and are subject to the provisions of this subpart for continued approval to handle and store the applicable commodities.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations", and has been classified "significant". An approved Final Impact Statement is available from Mr. Eugene A. Williams, ASCS, (202) 447–7335.

Signed at Washington, D.C. on November 13, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79–36077 Filed 11–21–79; 8:45 am]

BILLING CODE 3410–05–M

Animal and Plant Health Inspection Service

9 CFR Part 113

Viruses, Serums, Toxins, and Analogous Products; Organisms and Vectors; Standard Requirements; Corrections

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; corrections.

SUMMARY: On October 19, 1979, a final rule was published in the Federal Register at 44 FR 60262 that amended Part 113 by adding a new § 113.166. In the preparation of this final rule, the first letter of each word in the heading was not capitalized and parts of two sentences were inadvertently omitted. This amendment is being published to correct these errors.

EFFECTIVE DATE: This amendment becomes effective November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, Biologics Licensing and Standards Staff, USDA, APHIS, VS, Room 827, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8245.

Part 113.166 (b)(2)(ii) and (d)(3) are corrected to read:

§ 113.166 Bursal disease vaccine.

* * * * *

(b) * * *

(2) * * *

(ii) Fourteen days post-vaccination, the remaining vaccinates and negative controls shall be necropsied and examined for obvious bursal atrophy. If any of the vaccinates have such atrophy, the Master Seed Virus is unsatisfactory, except that, if any of the negative controls have such atrophy, the test is inconclusive and may be repeated.

* * * * *

(d) * * *

(3) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of log $10^{0.7}$ greater than that used in such immunogenicity test, but not less than log $10^{2.0}$ titration units (PFU or ID_{50}'s) per dose.

* * * * *

(21 U.S.C. 151 and 154, 37 FR 28477, 28646; 38 FR 19141.)

Done at Washington, D.C., this 16th day of November 1979.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79–35882 Filed 11–21–79; 8:45 am]

BILLING CODE 3410–34–M

Food Safety and Quality Service

9 CFR Part 316

Marking of Meat Food Products With Official Inspection Legend and Ingredient Statement

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Federal meat inspection regulations with respect to marking or labeling small sausages and other meat products in casings or link form to reflect weight limitations in kilograms rather than in pounds. The September 22, 1978, proposal (43 FR 43027–43028) was commented on without opposition. This rule is in compliance with the U.S. policy to convert to the metric system, with a minimum disruption of service and cost.

EFFECTIVE DATE: December 24, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Irwin Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION:

Background

On September 22, 1978, a notice was published in the Federal Register (43 FR 43027–43028), proposing to amend the Federal meat inspection regulations (9 CFR 316.10(b)) with respect to marking or labeling small sausages and other meat products in casings or link form. The Federal meat inspection regulations (9 CFR 316.10(b)) required that small sausages and similar products, in casings or link form, bear one or more inspection legends and one or more lists of ingredients on each 2 pounds of product. This requirement makes readily available to the consumer the list of ingredients on each 2 pounds of product and assures the consumer that the product has been packed under Federal inspection. Fully labeled immediate containers of 10 pounds or less of product need not bear the official inspection legend and list of ingredients on each 2 pounds of products, since containers of product 10 pounds or less are customarily sold at retail intact.

The Food Safety and Quality Service (FSQS) proposed to convert the 2-pound limitation to a kilogram (2.205 lbs.), and the 10-pound container size to 5 kilograms (11.025 lbs.). This change complies with the U.S. policy to convert to the metric system.

Public Comment

A total of 10 comments were received. One comment was received from a consumer, one from a State Department of Food and Agriculture, one from a farmer, one from a packaging firm, two from food retailing firms, and four from producers of meat food products.

Nine of the 10 comments supported the proposal in general terms, without

objection or modification. Four commenters specifically endorsed this conversion to the metric system, and four commenters stated the conversion would result in cost savings to industry and consumers. One comment was not relevant to the issues of the proposal.

After carefully considering all comments received on the proposed amendment, the Administrator has determined that the amendment, should be published without change, except to show the complete sentence containing the change to assure proper placement in the Code of Federal Regulations. Accordingly, the first sentence in § 316.10(b) of the Federal meat inspection regulations (9 CFR 316.10(b)) is amended to read as follows:

§ 316.10 Marking of meat food products with official inspection legend and ingredient statement.

* * * * *

(b) Inspected and passed sausage and other products, in casings or in link form, of the smaller varieties, shall bear one or more official inspection legends and one or more lists of ingredients in accordance with Part 317 of this subchapter on each kilogram (2.205 lbs.) of product, except where such products leave the official establishment completely enclosed in properly labeled immediate containers having a capacity of 5 kilograms (11.025 lbs.) or less and containing a single kind of product: *Provided,* That such products in properly labeled closed containers exceeding 5 kilograms (11.025 lbs.) capacity, when shipped to another official establishment for further processing or to a governmental agency, need only have the official inspection legend and list of ingredients shown twice throughout the contents of the container. * * *

* * * * *

(Sec. 21, 34 Stat. 1264, 21 U.S.C. 621; 42 FR 35625, 35626, 35631)

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been designated "not significant."

A Final Impact Statement has been prepared and is available from Mr. Fried, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. The alternatives considered during the analysis are listed in the Final Impact Statement.

Done at Washington, D.C., on November 19, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 79-36205 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Review of Uncontested Matters by Adjudicatory Boards During Operating License Proceedings

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its Rules of Practice to provide that during an operating license proceeding, NRC adjudicatory boards may examine any "serious" matter not contested by the parties. The rules as now written provide that the adjudicatory boards may review matters not put in issue by the parties to an operating license proceeding only in "extraordinary circumstances," and must exercise this authority "sparingly". The amended rules eliminate an apparent constraint on boards as well as more accurately reflect current NRC adjudicatory board practice.

EFFECTIVE DATE: November 30, 1979.

FOR FURTHER INFORMATION CONTACT: William M. Shields, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Phone: 202-634-3215.

SUPPLEMENTARY INFORMATION: The Commission's rules governing review of uncontested matters in operating license proceedings are: 10 CFR 2.760a, 10 CFR 2.104(c), 10 CFR Part 2, Appendix A, Sec. VIII(b) [Licensing Boards]; 10 CFR 2.785(b)(2) and 10 CFR Part 2 Appendix A, Sec. IX(a) [Appeal Board]. In general, these rules provide that in operating license proceedings the boards may review "serious" matters not put in issue by the parties only in "extraordinary circumstances", and that this authority is to be used "sparingly". The rules derive from a decision of the Atomic Energy Commission entitled *Consolidated Edison Company of New York* (Indian Point), 8 AEC 7 (1974).

It has come to the Commission's attention that this wording could prevent boards from examining issues that, although not presented by "extraordinary circumstances," could still pose important health and safety questions. It is true that members of the current adjudicatory boards, while limiting their inquiries to "serious" matters involving the public health and safety, the environment, or the common defense and security, do not appear to have further constrained themselves by strict observance of the "extraordinary circumstances" and "sparingly" criteria. The Commission approves this somewhat less restrictive limitation, and thus amendments to the rules of practice are in order.

The specific rule changes are stated below.

The Rules of Practice, 10 CFR Part 2, are amended as follows:

1. 10 CFR 2.760a is revised to read:

§ 2.760a Initial decision in contested proceedings on applications for facility operating licenses.

In any initial decision in a contested proceeding on an application for an operating license for a production or utilization facility, the presiding officer shall make findings of fact and conclusions of law on the matters put into controversy by the parties to the proceeding and on matters which have been determined to be the issues in the proceeding by the Commission or the presiding officer. Matters not put into controversy by the parties will be examined and decided by the presiding officer only where he or she determines that a serious safety, environmental, or common defense and security matter exists. Depending on the resolution of those matters, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, after making the requisite findings, will issue, deny, or appropriately condition the license.

2. 10 CFR 2.104(c) is revised to read (in relevant part):

§ 2.104 Notice of hearing.

* * * * *

(c) In the case of an application for an operating license in which a hearing will be held, the notice of hearing will, except as provided in paragraph (d) of this section and unless the Commission determines otherwise, state, in implementation of paragraph (a)(3) of this section, that the presiding officer will consider any matters in controversy among the parties and may, where he or she determines that a serious safety, environmental, or common defense and security matter has not been raised by the parties, consider such other matter within the purview of:

* * * * *

3. 10 CFR Part 2 Appendix A, Sec. VIII(b) is amended to read (in relevant part):

VIII. Procedures Applicable to Operating License Proceedings

* * * * *

(b) In an operating license proceeding the board will determine the matters in controversy among the parties, and where the board determines that a serious safety, environmental, or common defense and security matter was not raised by the parties, the board will determine such matter as being among the issues to be decided. Those issues will be specified in the notice of a hearing issued by the Commission, or in a prehearing conference order issued by the board in the exercise of its discretion during the hearing.

* * * * *

4. 10 CFR 2.785(b)(2) is revised to read:

§ 2.785 Functions of Atomic Safety and Licensing Appeal Boards.

* * * * *

(b) * * *

(2) In a proceeding on an application for an operating license where the Atomic Safety and Licensing Appeal Board determines that a serious safety, environmental, or common defense and security matter exists that has not been raised by the parties, it may give appropriate consideration to that matter.

5. The fourth sentence of 10 CFR Part 2 Appendix A, Sec. IX(a) is amended to read:

IX. Licensing Proceedings Subject to Appellate Jurisdiction of Atomic Safety and License Appeal Board

(a) * * * In a proceeding on an application for an operating license, if the Atomic Safety and Licensing Appeal Board determines that a serious safety, environmental, or common defense and security matter has not been raised by the parties, it has the authority to give appropriate consideration to that matter.

* * * * *

(Sec. 161(p), Pub. L. 83-703, 68 Stat. 948, 42 U.S.C. 2201(p); sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1243, Pub. L. 94-79, 89 Stat. 413, 42 U.S.C. 5841)

Dated at Washington, D.C., this 16th day of November, 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-36216 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Part 73

Physical Protection of Plants and Materials; Requirements for the Physical Protection of Nuclear Power Plants

Correction

In FR Doc. 79-35619, appearing at page 65969 in the issue of Friday, November 16, 1979, the headings, which mistakenly identified the Nuclear Regulatory Commission as part of the Department of Energy, should be corrected to read as above.

BILLING CODE 1505-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 541, 545

[No. 79-571]

Loans in Excess of 80 Percent of Value; Three-Family and Four-Family Dwellings

November 15, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rules.

SUMMARY: These rules amend the Board's regulations to permit Federal savings and loan associations to make loans with low downpayments on the security of three- and four-family dwellings provided the borrower occupies a unit of the dwelling. The rules also increase the maximum authorized dollar amounts of loans secured by two-, three- and four-family dwellings. The Board believes these changes will increase opportunities for home ownership, especially in urban areas where such dwellings are concentrated and, by encouraging owner occupancy in such areas, help alleviate problems associated with absentee ownership.

EFFECTIVE DATE: December, 24, 1979.

FOR FURTHER INFORMATION CONTACT: John R. Hall, Attorney, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552 (202-377-6445).

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board, by Resolution No. 79-342, dated June 14, 1979, proposed to amend Parts 541 and 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Parts 541 and 545) to permit loans in excess of 80 percent of value on the security of three- and four-family dwellings, provided the borrower executes a certificate stating that he or she occupies, or in good faith intends to occupy, the property as his or her principal dwelling. The Board also proposed to set a maximum amount of $60,000 per dwelling unit on any loan secured by a two-, three- or four-family dwelling with a loan-to-value ratio of more than 80 percent but not more than 90 percent.

Present § 545.6-2(a) limits 90-percent loans on two-family dwellings to maximum dollar amounts per dwelling unit as established under section 207(c)(3) of the National Housing Act. This limitation is not prescribed by statute; section 5(c) of the Home Owners' Loan Act merely requires that the amount of the loan exceeding the 207(c)(3) maximum be included in a limited investment category of the association.

On the basis of comments received and all other information available to it the Board has determined to adopt the proposed amendments with the following change.

The Board has determined to prescribe a maximum dollar amount 90-percent on loans on the security of two-, three-, and four-family dwellings of $60,000 per dwelling unit or the limit established pursuant to section 207(c)(3) of the National Housing Act, whichever is greater. The Board believes these alternative maximums will assure flexibility for associations located in all areas of the country, including areas where a maximum of $60,000 per dwelling unit would be unnecessarily restrictive. Thus, this change will more effectively achieve the liberalization intended by the proposed amendments.

The final amendments also contain a technical change clarifying that no loan made under §§ 545.6-2(a) (2) or (3), as long as it is in excess of 80 percent of the value or purchase price of the security property, may be included in the category of loans that are not subject to percentage-of-assets or percentage-of-savings-accounts limitations. As provided in the current regulations, such loans are subject to a 50-percent-of-assets limitation, and loan amounts exceeding 207(c)(3) limits must be included in an investment category that may not exceed 20 percent of assets.

Comment Summary

The Board received 26 public comments on the proposal. Nineteen commenters favored the proposal, three opposed it, and four recommended that the proposal be amended.

Comments Favoring Adoption

Respondents favoring adoption of the proposal stated their belief that it would encourage lending in inner-city areas where three- and four-family dwellings are concentrated and increase opportunities for home ownership for first-time home buyers, the elderly, and inner-city residents. Commenters stated that an increase in owner occupancy would benefit areas in which housing has been uniformly owned by absentee landlords. They stated that Federal associations have been restricted in making loans on three- and four-family dwellings by the low maximum loan amounts permitted under the 207(c)(3)

limits and by the inability of potential borrowers to accumulate the required downpayment. Some associations stated that present restrictions have precluded their making loans on a significant part of the housing located in their lending area.

Respondents also favored the proposal as a step toward increased management responsibility and flexibility.

Comments Opposing Adoption

Commenters expressed concern about the ability of moderate-income persons to repay the loans that the proposal would authorize. They stated that rental income cannot be expected to cover monthly mortgage payments, and in areas where purchase prices are high with respect to rental rates, a borrower will require supplemental income that is above the "moderate" income level. One commenter asserted that prudent lending dictates that income property should carry itself.

Commenters noted that some borrowers will have little experience in managing rental property and may be unprepared for the high maintenance costs and rent collection and vacancy problems often associated with rental income.

While the Board recognizes that higher ratio loans may involve increased risk, it believes that associations can minimize that risk by applying good appraisal practices and careful underwriting standards to each individual loan application. The Board would not expect associations to approve any loan if it appeared that net operating income from the property, combined with the borrower's other resources, would not be sufficient to service the debt, maintain the property, and meet minor emergencies.

Respondents asserted that the requirement that the owner occupy one of the units of the dwelling cannot be enforced and therefore the proposed low-downpayment loans will be an invitation to abuse by speculators. Respondents stated that the proposal will merely reduce the equity interest of investors in such property and thereby aggravate the absentee-landlord problem. Other respondents urged that the residency requirement be increased or that a means of enforcement be authorized.

The Board believes that the potential for abuse of the owner-occupancy requirement can be reduced if associations structure loans to make them affordable for qualified owner/occupants whose certification of intent to occupy the property is executed in good faith. Further, the Board's experience with high-ratio single-family dwelling loans, which also have an owner-occupancy requirement, does not lead it to expect widespread abuse. The Board notes that any applicant who makes a false statement about occupying or intending to occupy the security property will be subject to criminal prosecution under 18 U.S.C. 1014.

One commenter argued that the proposed $60,000 maximum loan per unit would be too high.

The Board believes that careful appraisal procedures will determine loan amounts within the maximum prescribed limits. The final amendments provide a flexible maximum that will reflect the differing housing costs in various areas of the country.

Another commenter stated that the proposal is inflationary at a time when government is otherwise working to reduce inflation.

Because the thrust of the amendments is to facilitate a specific type of lending rather than to increase total lending, the Board does not believe the change will produce an inflationary effect.

Commenters' Recommendations

Most recommendations concerned the maximum loan amount per dwelling unit. The following limits were recommended:

(1) Permit $75,000 for a two-family dwelling, $90,000 for a three-family dwelling, and $100,000 for a four-family dwelling.

(2) Permit $75,000 for a one-family dwelling, $70,000 per unit for a two-family dwelling, $65,000 per unit for a three-family dwelling, and $60,000 per unit for a four-family dwelling.

(3) Permit $75,000 on the borrower's unit (equalling the amount permitted on a single-family dwelling) and a lesser amount for each of the other dwelling units, not to exceed an average of $45,000 per unit.

(4) Permit the greater of $60,000 or the 207(c)(3) limitations, thereby assuring that, if housing costs rise and the $60,000 limit is not immediately increased, the regulation will not unnecessarily limit lending activity.

(5) Permit management to determine maximum loan amounts.

The final amendments incorporate the fourth listed suggestion. It is the Board's view that the prescribed maximum will provide flexibility for loans on various types of housing in various geographic areas.

One commenter recommended that the $60,000 maximum amount be made applicable to 95% loans on two-family dwellings.

The Board believes that by maintaining 207(c)(3) limits on 95% loans, loans with the lowest downpayment will be available to moderate-income borrowers seeking the most affordable, small multi-unit dwellings.

One respondent recommended that low-downpayment loans be limited to borrowers with incomes under $30,000.

The Board does not consider such a requirement necessary if the owner-occupancy requirement is met.

One respondent recommended permitting low-downpayment loans for non-resident landlords who agree to submit to periodic inspections by a government agency.

The purpose of the proposed amendments is to encourage owner occupany and therefore, the suggestion is beyond the scope of the proposal.

One respondent recommended that loan agreements contain some warning language regarding criminal penalties for false statements made in connection with obtaining a loan from a Federal association.

The Board has no objection to inclusion of such a statement in loan agreements.

PART 541—DEFINITIONS

Accordingly, the Board hereby amends §§ 541.23, 545.6–2(a), and 545.8–7(b) of the Rules and Regulations for the Federal Savings and Loan System, to read as follows:

§ 541.23 Two-, three- or four-family dwelling.

A structure designed for two, three, or four dwelling units, respectively.

PART 545—OPERATIONS

§ 545.6–2 Monthly-installment loans.

Loans repayable in regular periodic payments sufficient to liquidate the debt, principal and interest, within the loan term may be made as follows:

(a) *On the security of homes or combinations of homes and business property.* * * *

(2) *80 percent to 90 percent of value.* The 80 percent limitation in paragraph (a)(1) of this section shall be 90 percent, if:

(i) The loan is secured by a first lien on a single-family, two-family, three-family, or four-family dwelling;

* * * * *

(iii) The amount of the loan does not exceed: (A) For single-family dwellings, $75,000 ($112,500 for security property in Alaska, Guam or Hawaii) and, for two-family, three-family, and four-family dwellings, the greater of $60,000 per dwelling unit or the amount allowable in

or under section 207(c)(3) of the National Housing Act, or (B) 90% of the value or purchase price of the security property, whichever is less;

* * * * *

(v) The borrower, including a purchaser who assumes the loan, has executed a certificate stating that (A) no lien or charge on the property other than the association's lien or any lien or charge which will be discharged from the proceeds of the loan, has been given or executed by the one executing the certificate, or has been agreed to be so given or executed, and (B) the borrower occupies, or in good faith intends to occupy, the property as the borrower's principal dwelling;

* * * * *

(3) *90 percent to 95 percent of value.* The 80 percent limitation in paragraph (a)(1) of this section shall be 95 percent for loans secured by first liens on single-family and two-family dwellings, if:

(i) The requirements of paragraphs (a)(2) (ii), (iv), (v), (vi), and (vii) are met;

* * * * *

§ 545.8-7 Percentage limitations on real estate loan investments.

(a) *Loan investments not subject to percentage limitation.* The following investments by a Federal association on loans in the security of real estate shall not be subject to any percentage-of-assets or percentage-of-savings-accounts limitation: (1) A loan secured by a single-family dwelling, or a home or combination of home and business property, except a loan:

* * * * *

(v) Made under §§ 545.6-2(a) (2) or (3), as long as the loan is in excess of 80 percent of the value or purchase price of the security property, determined at the time the loan was made, whichever is less:

* * * * *

(b) *Percentage limitations for specific types of loans.* Loan investments made under sections containing specific percentage limitations shall be subject to those limitations. Those sections are: § 545.6-2(a)(2) (loans on single-family or two-, three- and four-family dwellings), § 545.6-2(a)(3) (loans on single-family or two-family dwellings), § 545.6-3(d)(4) (loans to facilitate trade-in or exchange), § 545.6-5 (developed building lot loans), § 545.6-6 (land acquisition and development loans), § 545.6-8 (loans for housing for the aging), § 545.6-10 (loans in areas receiving concentrated development assistance), § 545.6-11 (loans guaranteed under the Foreign Assistance Act of 1961), § 545.6-12(d) (nonconforming secured loans), and § 545.6-13 (Farmers Home Administration Rural Housing Program guaranteed loans). However, whenever the terms of a loan investment under §§ 545.6-8, 545.6-10, 545.6-12(d) or 545.6-13 meet the requirements for a loan under §§ 545.6-2 or 545.6-3, the loan may be allocated to the applicable percentage-limitation category in paragraph (c) of this section, and if the loan meets the requirements of paragraph (a) of this section, it shall not be allocated to any percentage-limitation category. A loan investment under § 545.6-2(a)(2) (a loan on a single-family or two- to four-family dwelling in excess of 80 percent of value) or § 545.6-2(a)(3) (a loan on a single-family or two-family dwelling in excess of 90 percent of value) within the association's regular lending area may be released from its percentage-limitation category when the loan balance has been reduced to not more than the percent of value permitted under the applicable provision.

* * * * *

(Sec. 5. 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-36207 Filed 11-21-79; 8:45 am]

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DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Part 540

Regional Action Planning Commissions; Administration

AGENCY: Special Assistant to the Secretary for Regional Development, Office of the Secretary, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce is adopting final regulations applicable to the Regional Action Planning Commissions. The revised regulations include standards for Commissions' administrative responsibilities and the administrative requirements which Commissions apply to their financial assistance recipients. Congress appropriates funds for this program to the Secretary of Commerce and has designated the Secretary as the administrator of the statute which authorizes the regional commissions. The purpose of the revised regulations is to meet the Secretary's legal responsibility to assure that Commissions are accountable to the Federal Government for the Federal funds which are provided to them by the Department of Commerce. Existing standards have proven to be inadequate safeguards to prevent or detect fraud, waste and abuse in the program. The revised rules will enable the Department to handle better its responsibilities in transferring funds to Commissions and assuring their proper use. While preserving the authority of Commissions to plan and make investment decisions consistent with applicable plans and law, the rules also enable the Commissions to fulfill better their responsibilities as recipients of public funds and to handle their administrative functions in a more efficient and economical manner. In order to strengthen Commission responsibility, whenever possible the regulations have set only minimum standards which the Commissions are expected to supplement with their own standards. The revised regulations also enable the revocation of a set of 1970 Secretarial Guidelines to the Commissions and make the existing regulations more readable.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Daniel J. Schulder, Room 2092, U.S. Department of Commerce, Washington, D.C. 20230 (202) 377-5174.

SUPPLEMENTARY INFORMATION: On June 7, 1979, the Department of Commerce published in the **Federal Register** (44 FR 32958) proposed regulations applicable to the regional commissions established pursuant to Title V of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3181 *et seq.* (hereinafter called the Act). At the same time as publication, copies of the proposed regulations were sent to governors who serve as members of commissions and to other interested parties. Fifteen comments on the proposal were received during the 60-day public comment period which ended on August 6, 1979. Comments came from four groups: Governors who are members of commissions (12), members of Congress (1), Governors' alternates (1) and executive directors of commissions (1). Most comments did not address the substantive content of the proposed regulations. However, in response to the comments received, changes have been made in the regulations including substantial reductions in the overall length and elimination of many detailed requirements. Although a majority of the comments agree with the objective of assuring proper management of tax dollars, most comments questioned the authority of the Secretary or the need for the Department to issue regulations

applicable to the Title V regional commissions. Some commentators indicated a lack of awareness of existing regulations applicable to regional commission operations. For clarification, these regulations amend the existing regulations.

Comments on whether the Department has the authority to issue regulations focus on the concept of a Title V regional commission as a partnership betwen the Federal Government and the States. Some commentators interpret this partnership as mandating agreement by one partner before the other may impose any requirements on the partnership entity. The Department supports the concept of the commissions as partnerships for the purpose of carrying out programs of regional development. However, the Act and the legislative history indicate congressional intent not to exempt the commissions from minimum fiscal and management standards applicable to administrative entities receiving Federal funds. In fact, the Congress appropriates the funds for commissions to the Secretary and specifically provides that the Secretary will administer the program's authorizing statute. In these roles, the Secretary has a legal obligation to insure that the Federal funds which are provided to the commissions are used for purposes authorized by law. The authorizing statute also allows the Secretary to adopt such regulations as necessary to carry out legal responsibilities (42 U.S.C. 3211). Because this legal responsibility is placed with the Department of Commerce, self-regulation by commissions may supplement, but cannot substitute for, the Secretary's rule-making on the public record.

Recently, in the course of the Senate debate concerning new legislation affecting this program, Senator Randolph the floor manager, made clear the concern of the authorizing Committee about the fiscal management of the program and indicated his awareness of and agreement in principle with the issuance of appropriate regulations in advance of enactment of the pending legislation.

Some commentators suggested that Commissions be allowed to regulate their own fiscal and management procedures through internal codes and without Federal standards, such as these regulations, to provide a basis for developing such codes. The Department agrees that commissions should have internal codes and has made allowance for such documents in the text of the regulations. However, in order for the Department to meet its responsibilities for the appropriated funds which it receives and then provides to the commissions, the Secretary has no alternative but to set minimum fiscal and management standards which the codes must contain. Considerable discretion is allowed commissions because of their unique status to develop and apply their own implementing measures so as to supplement Federal rules in ways that best suit each commission's circumstances and those of the State members. This discretion is believed to be unique, but is warranted under the circumstances. Moreover, commission codes approved by the Secretary that continue to meet the minimum standards of these regulations, will be used as the source documents for conducting compliance evaluations and audits of the commissions. If, however, a commission does not have an approved code, or until a code or an amendment to a code is approved by the Secretary, these regulations will be the only legally enforceable standards for the commissions to follow.

Some commentators suggested that the Department is imposing "red tape" on the commissions and preventing them from being flexible in their operations. We recognize that commissions will need to exert greater care in their handling of Federal funds than was required of them in the past. However, the Department of Commerce believes that it is in the public interest to publish standards of accountability for the use of Federal tax dollars. Recent audits and disclosures of fraud, waste and abuse in some commissions make it clear that the standards established and applied by the Department in the past were not adequate assurance that Federal funds were properly expended. Contrary to the comments, these minimum fiscal and management standards have been developed to avoid excessive "red tape," to allow commissions the maximum amount of flexibility, and to avoid the application of standing Federal rules that are not applicable to entities such as the commissions. The standards are based on requirements negotiated by the Office of Management and Budget with non-profit recipients of Federal financial assistance and accepted and followed by those recipients in their handling and use of Federal dollars. (See OMB Circular A–110.) The final regulations have been substantially reduced by eliminating excessively detailed rules and provisions which are restatements of requirements found in law. Also, in response to comments received, Section 540.204 has been developed. This section consolidates standards from scattered parts of the proposed regulations and places more responsibility on the commissions to develop their own policies and procedures. In addition, the criteria for judging the adequacy of these self-developed standards have been simplified, leaving more discretion for the commissions in determining the content of the standards. Adoption of these regulations will enable the Secretary to eliminate the "Guidelines" which commissions have been following since 1970. Moreover, if it is found that the application of provisions of OMB Circulars A–102 and A–110 will cause undue hardships or inequity on a grantee or contractor to the Commission or when an exception from these Circulars is in the best interest of the Commission, the regulations provide for a waiver system with the prior approval of the Secretary and OMB.

One commentator indicated that the regulations were being proposed for final effect during the middle of the State's budget cycle and that the new requirements could disrupt Commission funding which the State had counted on. The Department recognizes that, if regulations were immediately made applicable to the commissions, there could be disruptions. Therefore, because of the legal and administrative problems of retroactive or immediate applicability of requirements, the rules now provide a transition period, making the regulations apply to financial assistance and contracts awarded on or after January 1, 1980. This provision recognizes that commission funding is not entitlement funding and that it is not reasonable for recipients to expect that minmum standards of fiscal accountability should give way because a recipient assumes it will receive funds from a commission each year. Because these rules are designed to insure that funds are not going into unauthorized activities, it is in the public interest not to delay their applicability after January 1, 1980.

Accordingly, Part 540 of Title 13 CFR is revised to read as follows:

PART 540—ADMINISTRATION

Sec.

540.001 Authority and purpose.

Subpart A—Funding of Commissions

540.101 Purpose.
540.102 Funding procedures.

Subpart B—Administrative Standards Applicable to Commissions

540.201 Purpose.
540.202 Effective date.
540.203 Internal Commission Code.
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540.205 Financial Assistance—General.

Sec.

540.206 Financial Assistance—Administrative Requirements.
540.207 Nondiscrimination.
540.208 Personnel—Key Officials.
540.209 Personnel Policies and Procedures.
540.210 Commission Records.
540.211 Management of Commission Property.
540.212 Program Income.
540.213 Procurement by Commissions.

Subpart C—Compliance

540.301 Purpose.
540.302 Evaluation.
540.303 Audits.
540.304 Remedies for Noncompliance.

Authority: 42 U.S.C. 3204; 42 U.S.C. 3211; 42 U.S.C. 3181 *et seq.;* Executive Order 11386; Department Organization Order 15–5.

§ 540.001 Authority and purpose.

(a) The Secretary of Commerce is directed by the Congress to administer Title V of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3181 *et seq.*, which establishes the Regional Action Planning Commission program. In this role, the Secretary is authorized to establish such rules and regulations as may be necessary.

(b) The standards contained in this part respond to the Secretary's legal duty to insure that the Federal funds provided to the Regional Commissions for their programs and internal operations are used for purposes authorized by law. The standards of this part apply to all regional Commissions established pursuant to 42 U.S.C. 3181 *et seq.* They are designed to assure the Commissions' accountability for the Federal funds which they receive, to improve efficiency and prevent fraud, waste and abuse, to standardize certain procedures for all Commissions, and to allow maximum flexibility for Commissions to establish their own standards in most areas of operation.

Subpart A—Funding of Commissions

§ 540.101 Purpose.

This subpart describes the procedures which govern how Regional Commissions receive their funding from the Department of Commerce.

§ 540.102 Funding procedures.

(a) The annual budget request for the regional development program is submitted to the Office of Management and Budget as a part of the Department of Commerce's proposed budget and, as it is approved, becomes a part of the President's budget request submitted to the Congress. The Federal Cochairman shall prepare and submit to the Secretary any documentation and information on the Regional Commissions which the Department requires in order to formulate a budget request for presentation before budget authorities. The Federal Cochairman shall also carry out other duties in the presentation of a budget request as may be required of them under law.

(b) Funds for Commission operations and programs which are appropriated to the Department of Commerce shall be treated as provided in the appropriation act, the authorizing statute and other applicable statutes, regulations and policies. Department of Commerce appropriated funds shall be transferred to Commissions in accordance with the program's authorizing statute and other applicable Federal laws and policies. In transferring the appropriated funds, the Secretary may require such documents, reports and information from the Federal Cochairman and the Regional Commissions as may be appropriate to carry out the Secretary's responsibilities under law.

(c) As a condition of receiving any funds from the Department of Commerce, each Commission shall submit to the Secretary for review and approval a financial plan in such forms and at such times as the Secretary shall prescribe.

(d) Funds may be used by a Commission only for purposes authorized by law and in accordance with a financial plan approved by the Secretary. The Department shall apply the principles and standards of Federal Management Circular 74–4 for the purpose of determining the reasonableness, allowability and allocability of costs incurred by a Commission.

Subpart B—Administrative Standards Applicable to Commissions

§ 540.201 Purpose.

This subpart sets certain minimum standards to be followed by the Regional Commissions in their internal operations and in administering their assistance programs. These standards assure accountability for the Federal funds provided to Commissions while allowing the Commission to set additional standards and to develop their own standards in most areas of operation.

§ 540.202 Effective date.

(a) This subpart shall become effective on January 1, 1980, and shall apply to all Commission internal operations and all grants and contracts awarded by a Commission on or after January 1, 1980.

(b) Any grant or contract awarded by a Commission prior to January 1, 1980, but renewed, extended or amended in any manner on or after January 1, 1980, shall be subjected to and meet the requirements of this subpart.

§ 540.203 Internal Commission Code.

(a) Each Commission is authorized to adopt a code governing its policies and procedures. Any Commission code shall meet the minimum standards prescribed in this subpart, including the detailing of specific policies and procedures as required in § 540.204 of this part.

(b) If any Commission adopts an internal code and wishes to implement it, the Commission shall submit the proposed code for the approval of the Secretary of Commerce. If the Secretary determines that the submitted code meets all of the minimum standards in this subpart, the code shall be approved by the Secretary. The Secretary will not act on those portions of the Code which do not affect the standards in this subpart. Approval of a code does not imply approval of those sections which have no relevance to the minimum standards in this subpart. After approval, a Code which continues to comply with this subpart will be used in lieu of this subpart for the purpose of Departmental evaluations and audits as described in Subpart C of this part.

(c) Any proposed amendment to an approved code must be submitted to and approved by the Secretary prior to its becoming effective. The Secretary shall approve the proposed amendment if it is authorized by law and meets the minimum standards in this subpart. If the Secretary determines that the amendment is not relevant to the minimum standards of this subpart, the Secretary shall take no action on it.

(d) If the Secretary takes no action on a proposed code or a proposed amendment within 45 days of receiving it, the code or amendment shall be deemed approved by the Secretary.

(e) The Department shall treat a violation by a Commission of its approved code as a violation of the corresponding regulations in this part.

§ 540.204 Commission responsibilities.

(a) Each Commission shall develop standards as described in paragraph (b) of this section and submit them to the Secretary on or before May 1, 1980. The Secretary shall review each standard to determine if it complies with the applicable minimum criteria as described in paragraph (b) of this section. If the standard substantially meets these minimum criteria, the Secretary shall approve the standard for adoption and implementation by the Commission.

(b) Each Commission shall develop the following:

(1) Standards of conduct which shall govern the performance of Commission officers, employees or agents engaged in the award and administration of contracts and grants. Minimum Criteria:

(i) Such standards shall provide for disciplinary actions to be applied for violations of such standards by officers, employees or agents.

(ii) Such standards shall contain at least the standards set forth in §§ 540.209(c) and 540.209(d).

(2) A pay schedule for employees and a schedule of identified employee benefits with corresponding policies on benefits. Minimum Criteria:

(i) Benefits include, but are not limited to, annual and sick leave, other leave, health insurance, life insurance, retirement benefits and premium pay.

(ii) A Commission shall not establish benefits which exceed the levels of benefits provided by the Federal Government to Government employees. A Commission shall not establish benefit policies which have the effect of giving more generous benefits to Commission employees than Federal employees receive. This restriction shall not apply if a Commission chooses to contract with a State Government in the region for inclusion of its employees in the State's retirement and employee benefit system and if Commission employees are treated the same as regular State employees for benefit purposes.

(iii) The pay schedule, benefits and related policies must meet the applicable requirements of Federal Management Circular 74–4 and shall not exceed limitations in the Act.

(3) Procedures, policies and amounts governing the authorization for and reimbursement of travel and transportation costs for employees in transacting official Commission business. Minimum Criteria:

(i) Travel costs include transportation, food, lodging and related costs incurred by Commission personnel in performance of their official duties away from their regular place of duty.

(ii) Reimbursement for travel or transportation costs shall not exceed the reimbursement provided by the standard travel regulations of the Federal Government.

(iii) Travel and transportation procedures and policies shall generally conform to the Department of Commerce standard travel regulations contained in Department Administrative Order 204–1.

(iv) The standards of paragraph (b)(3)(i), (ii) and (iii) above shall not apply if a Commission adopts the standard travel regulations of a State Government in the region and if a Commission employee is treated the same as a regular State employee would be for purposes of travel and transportation authorization and expenses.

(4) Payroll and attendance policies and procedures.

Minimum Criteria:

(i) A timekeeper's manual shall be established by each Commission.

(ii) A Commission shall keep time and attendance records on all persons employed by it in order to insure the proper recording of attendance, leave, other absences from duty and the proper distribution of hours by project.

(iii) Each payroll period, only an authorized Commission supervisor or official shall verify, approve and sign the time and attendance records.

(5) Experience and education requirements for each authorized Commission employee position. Minimum Criteria: The requirements must be reasonable, explicit, and verifiable.

(6) Specific policies governing the use of Commission funds and the conduct and responsibilities of officers and employees in the following areas:

(i) Gifts;

(ii) Entertainment;

(iii) Honoraria;

(iv) Training;

(v) Use of Commission time and facilities;

(vi) Outside employment;

(vii) Use and disclosure of employment and information;

(viii) Political activities;

(ix) Non-discrimination;

(x) Nepotism;

(xi) Lobbying;

(xii) Authorization for and expenses of conferences and meetings.

Minimum Criteria:

(A) The specific policies must meet the applicable requirements of Federal Management Circular 74–4.

(B) The Commission must establish a procedure by which all employees are notified of the responsibilities and rights created by this subsection.

(C) The non-discrimination policies shall meet the applicable Federal requirements imposed on the Commissions in the areas of discrimination by race, color, national origin, sex, handicap or age.

(D) At a minimum, the political activities policies shall meet the applicable requirements of the Hatch Political Activity Act, 5 U.S.C. 1501 *et seq.*

(E) Policies on the use and disclosure of employment and information at a minimum, shall address the areas of private gain, non-public information and coercion.

(F) The gifts and entertainment policies shall incorporate at least the standards of 540.209(d).

(G) The nepotism policy, at a minimum, shall cover those relatives identified in 5 U.S.C. 3110, the Federal nepotism statute.

(7) Requirements for obtaining, reviewing, and acting upon employee statements of employment and financial interests. Minimum Criteria:

(i) At a minimum, each Commission shall require statements of employment and financial interests from the Executive Director and from employees exercising judgments on awarding grants or contracts or approving costs under grants or contracts.

(ii) Statements shall be updated yearly.

(iii) The State and Federal Cochairmen shall review the statements of employment and financial interests and be responsible for taking appropriate action on the information contained therein in order to resolve conflicts or apparent conflicts of interest.

(iv) Statements shall be held in confidence except for good cause.

(v) Facts disclosed in statements which indicate a conflict or apparent conflict between the personal interest of any employee and the interest of the Commission shall be investigated and referred to legal counsel as appropriate.

(vi) The standards shall contain procedures and sanctions for dealing with employees with unresolved conflicts of interest.

(8) An appropriate appeal procedure for employees covering:

(i) Cases of discrimination or unlawful preferential treatment;

(ii) Adverse personnel actions or nonactions;

(iii) Violation of official and employee conduct standards.

Minimum Criteria:

The procedure shall provide proper notice and the opportunity for a hearing in accordance with applicable requirements of law.

(9) Procedures governing audit resolutions and project closeouts. Minimum Criteria: These standards shall incorporate, but expand upon, Attachment K of OMB Circular A–110 and Attachment L and P of Circular A–102.

(10) Policies and procedures on cash advances in order to ensure that payments to recipients do not exceed identified requirements. Minimum Criteria: Section 8 of Department of Commerce Administrative Order 203–7 on cash management shall be used as a

guide for determining the subjects which must be addressed.

§ 540.205 Financial assistance—General.

(a) *Selection of Instrument.* Before a Commission transfers funds to a recipient, the Executive Director must decide whether to use a grant instrument or a contract.

(1) If the principal purpose of the instrument is the acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of the Commission, the Commission shall use a contract and may not use a grant and shall comply with § 540.213.

(2) If the principal purpose of the instrument is financial assistance to the recipient in order to accomplish a public purpose of support or stimulation authorized by Title V of the Public Works and Economic Development Act, the Commission shall use a grant and not a contract. However, the Executive Director may determine in a specific instance that the use of a contract is appropriate. (See § 540.213(c)).

(b) *Purpose.* (1) A grant or contract may be awarded by a Commission only for a purpose or purposes authorized by Title V of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3181 *et seq.*

(2) No grant or contract shall be awarded unless there is an approved application from the proposed financial assistance recipient which discloses how the funds will be used. Each grant or contract shall—

(i) Contain a description of the work to be accomplished under the grant or contract (the "scope of work") which identifies final work products and the specific activities supported by the financial assistance;

(ii) Identify the goals and objectives of the assistance and how Commission funding will assist in meeting those objectives; and

(iii) Be supported by approved plans, budgets and other information submitted by the applicant/recipient to enable the Commission to evaluate the relationship of funding to goals and to perform technical evaluations and cost/price analyses as required.

(c) *Changes.* (1) Changes in any provision or condition of a grant or contract shall be made only by formal amendment of the agreement.

(2) There must be adequate consideration for changing an agreement to provide increased funding to the recipient.

(3) Project files must be kept up to date with all changes.

(d) *Prohibitions.* (1) No grant or contract may be entered into by a Commission for the purpose of funding an individual's salaried position in a unit of government or for paying the salary of any individual except as follows: All or any part of the compensation (and allowable benefits) of an individual may be a cost charged to grant or contract funds as an expense of carrying out specific duties detailed in the scope of work for the grant or contract. The amount of cost charged will depend upon the services rendered and the extent of benefits received in relation to grant or contract objectives and in accordance with the applicable cost principles. No grant or contract funds shall be used to pay any portion of the compensation of a Governor or an Alternate or any person who acts as an Alternate.

(2) In accordance with applicable cost principles, a grant or contract with a unit of State or local government shall not provide for payments to cover expenses for general activities which the unit normally incurs to carry out its general governmental responsibilities. Such assistance will be considered an unauthorized subsidy. A grant or contract shall be for specific, defined tasks or projects authorized by law. (FMC 74–4)

(e) *Files.* Each Commission shall establish and maintain an official file on each project assisted.

(f) *Evaluation.* (1) During the course of and at the completion of each project assisted, each Commission shall (i) assess the progress or results of the project in relation to its established, approved objectives; (ii) measure the overall results of program accomplishments in terms of contributions to the Commission's basic goals and objectives; and (iii) assure that evaluation activities are fully documented in the project files.

(2) A Commission shall not delegate the following to any person who is not an official or employee of the Commission:

(i) Accountability for insuring that grants and contracts are being properly monitored and that corrective actions are taken when appropriate;

(ii) Final evaluation and approval of performance and costs under a grant or contract.

§ 540.206 Financial assistance—administrative requirements.

(a) Each Commission shall adopt and apply the following standards for its recipients of financial assistance:

(1) For grants to State and Local Governments, the following attachments in Office of Management and Budget (OMB) Circular A–102 (revised as of October 1, 1979)—

(i) A Cash Depositories;

(ii) B Bonding and Insurance;

(iii) C Retention and Custodial Requirements for Records;

(iv) E Program Income;

(v) F Matching Share;

(vi) G Standards for Grantee Financial Management Systems;

(vii) H Financial Reporting Requirements;

(viii) I Monitoring and Reporting Program Performance;

(ix) K Budget Revision Procedures;

(x) L Grant Close-out Procedures;

(xi) N Property Management Standards; and

(xii) O Procurement Standards.

(2) For grants to and agreements with institutions of higher education, hospitals, and other nonprofit organizations, the following attachments in OMB Circular A–110 (July 20, 1976)—

(i) A Cash Depositories;

(ii) B Bonding and Insurance;

(iii) C Retention and custodial Requirements for Records;

(iv) D Program Income;

(v) E Cost Sharing and Matching;

(vi) F Standards for Financial Management Systems;

(vii) G Financial Reporting Requirements;

(viii) H Monitoring and Reporting Program Performance;

(ix) J Revision of Financial Plans;

(x) K Closeout Procedures;

(xi) L Suspension and Termination Procedures;

(xii) N Property Management Standards; and

(xiii) O Procurement Standards.

(b) The Federal Cochairman, with the prior approval of the Secretary and the Director of the Office of Management and Budget (OMB), may grant exceptions from the requirements of the attachments listed in paragraphs (a)(1) and (a)(2) of this section when an exception is in the best interest of the Commission or necessary to prevent undue hardships or inequity on a grantee or contractor.

(c) If a Commission wishes to adopt a form which is a substitute for or is a deviation from a form specified in the attachments listed in paragraph (a) of this section, the Federal Cochairman shall secure the prior approval of the Director of OMB in writing, with a copy to the Secretary, before the form is put into effect or use.

(d) Cost principles and standards. (1) State and local governments. When a Commission enters into a grant or contract with a State or local government, it shall apply the principles and standards of Federal Management Circular (FMC) 74–4 for determining reasonableness, allowability and allocability of costs. Under this

requirement, references in FMC 74–4 to such terms as Federal Government or Federal grantor agency shall be read as references to the Regional Commission.

(2) Educational institutions. When a Commission enters into a grant or contract with an educational institution, it shall apply the provisions of OMB Circular A–21 (formerly FMC 73–8) for determining the reasonableness, allowability and allocability of costs. Under this requirement, references in A–21 to such terms as Federal Government or Federal grantor agency shall be read as references to the Regional Commission.

(3) When a Commission enters into an agreement with an individual or a commercial organization, it shall apply the provisions of Subpart 1–15.2 of the Federal Procurement Regulations (41 CFR Subpart 1–15.2) for determining the reasonableness, allowability, and allocability of costs. Under this requirement, references in Subpart 1–15.2 to such terms as Government, Federal Government or Federal agency shall be read as references to the Regional Commission.

(4) When a Commission enters into an agreement with a nonprofit organization not covered under parargraphs (d) (1) or (2) of this section, it shall apply the provisions of "Department of Commerce Cost Principles for Non-Profit Organization" or an equivalent set of Federal cost principles (such as 41 CFR 1–15.2) for determining the reasonableness, allowability and allocability of costs. Under this requirement, references in this document to such terms as Department, Government, Federal Government or Federal agency shall be read as references to the Regional Commission.

(5) No Commission shall grant exceptions to the principles and standards of the cost principles referred to in paragraphs (d) (1), (2), (3) and (4) of this section except as specifically provided in the terms of the cost principles.

(e) Each Commission shall incorporate the appropriate requirements of this section into the terms of its grants, contracts and agreements.

§ 540.207 Nondiscrimination.

The provisions of Title VI of the Civil Rights Act of 1964 shall apply to each Commission as an agency empowered to extend Federal financial assistance and as a recipient of such assistance. The Commission shall adopt as its own the Regulations of the Department of Commerce implementing Title VI (15 CFR, Subtitle A, Part 8). The Commission and every program or activity receiving Federal assistance directly or indirectly from or through the Commission, shall be subject to and comply with those Regulations. The employment practices provisions of those Regulations shall be applicable to the Commission in its employing activities. The Commission may issue rules, regulations, orders and instructions to further implement Title VI and the Regulations.

§ 540.208 Personnel—Key officials.

(a) Each Commission shall employ legal counsel in order to meet its legal services needs.

(b) The Executive Director of a Commission is chief administrative officer of the Commission. Subject to the policies and procedures adopted by the Commission and any applicable laws, regulations and guidelines, the Executive Director is responsible for the efficient administrative operation of the Commission and is responsible to the State and Federal Cochairmen of the Commission. Each Commission shall assign such duties to the Executive Director as it deems appropriate, but, at a minimum, the Commission shall assign the Executive Director the authority to perform the following duties:

(1) To supervise and manage the Commission staff in carrying out day-to-day operations and to assure that proper administrative functions are accomplished;

(2) To develop the internal administrative structure of the Commission's staff and to assign functions and duties to employees;

(3) In accordance with Commission policies and after any required approval, to develop and execute for and on behalf of the Commission—

(i) Contracts and purchase orders;

(ii) Grant agreements;

(iii) Leases;

(iv) Travel orders;

(v) Personnel actions;

(vi) Any certifications required for the payment of legitimate expenses;

(4) To develop a procurement system consistent with applicable requirements and Commission policies;

(5) To prepare an annual Commission budget for presentation to the Commission and such others as directed by the Commission;

(6) To accept, on behalf of the Commission, funds from the Federal Government and the member States;

(7) To develop a system of budget and accounting control to insure that obligations never exceed available unencumbered funds.

§ 540.209 Personnel policies and procedures.

(a) *Bonding.* Each Commission shall provide adequate fidelity bond coverage of the Executive Director and such other officers and employees as the Commission determines. These bonds shall be obtained from companies holding certificates of authority as acceptable sureties (31 CFR Part 223).

(b) *Employee Positions.* (1) Each Commission shall keep an up-to-date position description for each of its authorized positions and shall ensure that it is applicable to and made available to the employee occupying the position.

(2) The rate of compensation for Commission employee positions shall not exceed the rate paid by the Federal Government to persons occupying similar positions with similar responsibilities.

(c) *Personal financial interests.* (1) Except as provided in paragraph (c)(2) of this section, no State Member, Alternate, officer, employee or agent of a Commission shall participate in any proceeding, application, award, selection, determination, grant, contract, procurement, claim, or any other activity in which, to his knowledge, at least one of the following has a financial interest that might cause a conflict of interest or create the appearance of a conflict of interest:

(i) The person himself or herself;

(ii) His or her spouse;

(iii) His or her minor child;

(iv) His or her business partner;

(v) Any organization (other than a State or political subdivision of the State) which employs any person listed in paragraph (c)(1) (i), (ii), (iii) or (iv) of this section;

(vi) Any organization (other than a State or political subdivision of the State) in which the person is serving as officer, director, trustee, partner or employee;

(vii) Any person with whom he or she is serving as officer, director, trustee, partner or employee in any organization;

(viii) Any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment.

(2) Exceptions to paragraph (c)(1) of this section may be obtained if the State Member, Alternate, person acting as an Alternate, officer, employee or agent—

(i) First advises the Commission of the nature and circumstances of the activity;

(ii) Makes full disclosure of the finanacial interest in writing; and

(iii) Receives in advance a written determination made by the full Commission that the interest is not so substantial as to be deemed likely to

affect the integrity of the services which the Commission expects from the individual involved.

The Commission shall keep a copy of each of the determinations made under this Rule in its official files.

(3) A Commission may declare void and rescind any contract or other agreement in relation to which it finds that paragraph (c)(1) of this section has been violated. If a Commission chooses not to void and rescind a contract or agreement under these circumstances, it shall place in its files a written report which states the following:

(i) The factual situation surrounding the contract or agreement;

(ii) The personal financial interest involved; and

(iii) The reasons for not voiding the contract or agreement.

(4) Paragraphs (c) (1) and (2) of this section do not apply to—

(i) The Federal Cochairman; or

(ii) Any Federal officer or employee detailed to a Commission pursuant to 42 U.S.C. 3186(a)(3).

(d) *Gifts, entertainment.* A Commission's standards for employees on gifts and entertainment, at a minimum, shall contain the following provisions:

(1) Except as provided in paragraph (d)(2) of this section, no Commission employee or officer shall accept or solicit, directly or indirectly, any gift, gratuity, entertainment, loan or any other thing of monetary value, from a person who—

(i) Has or seeks contracts or grant relations or other business or financial relations with the Commission; or

(ii) Has interests that may be substantially affected by the performance or nonperformance of the employee's or officer's official duty.

(2) Nothing in paragraph (d)(1) of this section shall prohibit—

(i) The solicitation or acceptance of any gift, gratuity, favor, loan, entertainment or any other thing of value which arises out of obvious family or personal relationships, such as those between the parents, children or spouse of the employee and the employee, so long as it is clear from the circumstances that it is the family or personal relationship rather than the business of the person concerned that is the motivating factor;

(ii) The acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(iii) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; and

(iv) The acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, or calendars, and other items of nominal value.

§ 540.210 Commission records.

(a) Each Commission shall keep such records as will fully disclose the amount and disposition of the funds received from the Federal Government and all other grantors, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources. These records shall also include (1) a record of key actions on individual projects which relate to both award and post-award monitoring, evaluation and close-out, in sufficient detail to understand the history of the project and its current status, and (2) such other records as will facilitate an effective audit.

(b) Each Commission shall assure retention of financial records, supporting documents, statistical records, and all other records pertinent to its activities for a minimum period of three years, with the following qualifications:

(1) If any litigation, claim or audit is started before the expiration of the three-year period, the Commission shall retain the records until all litigations, claims or audit findings involving the records have been resolved.

(2) Each Commission shall retain records for nonexpendable property acquired with Federal funds for three years after its final disposition.

(3) The three-year retention requirement is not applicable to a Commission when records are transferred to or maintained by the Federal Government.

(4) If a record or set of records is covered by the Records Control Schedule for Regional Action Planning Commissions (U.S. Department of Commerce, March, 1978), the Commissions shall follow the requirements of the Records Control Schedule.

(c) Unless the Records Control Schedule provides another standard, a record retention period starts from one of the following two dates, whichever is later:

(1) The last day of the Federal fiscal year during which the activities occurred for which the record is kept, or

(2) If the record concerns a project, the last day of the Federal fiscal year in which the project was completed.

(d) The Secretary may request transfer of certain Commission records to the custody of the Federal Government when it is determined that the records possess long-term retention value.

(e) The Secretary of Commerce, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers and records of a Commission and its recipients for the purpose of making audits, examinations, excerpts, and transcripts.

(f) A Commission shall provide for public access to its records. However, the Commission may impose limitations on access when it can demonstrate to the Secretary of Commerce or his or her designee that such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to the Federal Government.

(g) A Commission is authorized to substitute microfilm copies in lieu of original records.

§ 540.211 Management of Commission property.

(a) Each Commission shall observe the standards in this section relating to the management of property furnished to the Commission by the Federal Government or acquired by the Commission in whole or in part with Federal funds. A Commission may adopt its own standards and procedures governing the management of property as long as the provisions of this section are included in the Commission's standards.

(b) The following definitions apply for the purposes of this section:

(1) *Real property.* Real property means land, including land improvements, structures and appurtenances, thereto, but excluding movable machinery and equipment.

(2) *Personal property.* Property of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence, such as patents, inventions, and copyrights).

(3) *Nonexpendable personal property.* Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A Commission may use its own definition of nonexpendable personal property provided that such definition would at least include all

tangible personal property as defined above.

(4) *Expendable personal property.* Expendable personal property refers to all tangible personal property other than nonexpendable property.

(5) *Excess property.* Excess property means Federal property under the control of any Federal agency which, as determined by the head thereof, is no longer required for its needs or discharge of its responsibilities.

(6) *Acquisition cost of purchased nonexpendable personal property.* Acquisition cost of an item of purchased nonexpendable personal property means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installations, transportation, taxes, duty, or protective intransit insurance, may be included or excluded from the unit acquisition cost in accordance with the Commission's regular accounting practices.

(c) *Real property.* (1) No Commission shall use any Federal funds to purchase real property. This prohibition does not apply to bona fide Commission grantees, whose acquisition of real property is governed by other standards in this part. This prohibition does not apply to a gift or donation of real property to a Commission under the authority of 42 U.S.C. 3186(a)(6).

(2) If a Commission recovers real property from a recipient of Commission assistance which used Commission funds to purchase the property, the Commission shall abide by the standards applied to the recipient in Attachment N of OMB Circulars A–102 and A–110.

(d) *Nonexpendable personal property furnished by the Federal Government.* Title to Federally owned property furnished to a Commission remains vested in the Federal Government. Each Commission shall submit annually to the Secretary an inventory listing of Federally owned property in its custody. When a Commission no longer needs the property, it shall report the property to the Secretary and the Federal Cochairman for further Federal utilization. If the Federal agency which furnished the property has no further need for the property, it shall be declared excess and reported to the General Services Administration. After completion of Federal review, appropriate disposition instructions will be issued to the Commission.

(e) *Other nonexpendable property.* When nonexpendable tangible personal property is acquired by a Commission in part or in whole with Federal funds, title shall not be taken by the Federal Government but shall vest in the Commission subject to the following conditions:

(1) For items of nonexpendable personal property having a unit acquisition cost of $1,000 or more, the Secretary of Commerce reserves the right to transfer title to the Federal Government or to another Commission named by the Federal Government subject to the following standards:

(i) The property was acquired with 100 per cent Federal funds.

(ii) The property will be identified to the Commission in writing at least thirty days prior to the time the title will be transferred.

(iii) The Department of Commerce will issue disposition instructions within 120 calendar days after the end of the fiscal year in which the notice is given. If the Department fails to issue disposition instructions within the 120 calendar day period, the Commission shall apply the standards of paragraphs (e) (2) and (4) of this section as appropriate.

(iv) When the Department exercises its right to take title, the personal property shall be subject to the provisions for federally-owned nonexpendable property discussed in paragraph (d) of this section.

(v) When title is transferred either to the Federal Government or to a third party the Commission shall be reimbursed by the benefiting agency for any reasonable shipping or interim storage costs.

(2) The Commission shall use the property for the activities for which it was acquired whether or not the program continues to receive Federal funds from the Department. When it is no longer needed for the original activity, the Commission may use the property in its other activities sponsored with Federal funds.

(3) Use of any property owned by the Federal Government for non-Commission activities is prohibited unless approved by the Federal Cochairman and the Secretary. They may require a Commission to impose user charges if appropriate.

(4) When the Commission no longer needs the property, the property may be used for other activities in accordance with the following standards:

(i) For nonexpendable property with a unit acquisition cost of less than $1,000, the Commission may sell the property and retain the proceeds.

(ii) For nonexpendable personal property with a unit acquisition cost of $1,000 or more, the Commission may retain the property for other uses provided that compensation is made to the Department of Commerce or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original purchase (50% or 100%) to the current fair market value of the property. If the Commission has no need at all for the property and the property has further use value, the Commission shall request disposition instructions from the Department of Commerce, which shall determine whether it can use the property. If no requirement exists, the Department will report the property to the General Services Administration to determine whether a requirement for the property exists in other Federal agencies. The Department shall issue instructions to the Commission no later than 120 days after the recipient's request and the following procedures shall govern:

(A) If so instructed or if disposition instructions are not issued within 120 calendar days after the Commission's request, the Commission shall sell the property and reimburse the Department an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program (50% or 100%). However, the Commission shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater, for the Commission's selling and handling expenses.

(B) If the Commission is instructed to ship the property elsewhere, the Commission shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Commisssion's (State's) participation in the cost of the original purchase to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(C) If the Commission is instructed to otherwise dispose of the property, the Commission shall be reimbursed by the Department for the costs incurred in the disposition.

(f) *Property management standards for nonexpendable personal property.* Each Commission shall have property management standards for nonexpendable personal property which include the following procedural requirements:

(1) Property records shall include—

(i) A description of the property;

(ii) Identifying serial numbers;

(iii) Source of the property;

(iv) Acquisition date and cost, and whether title rests in the Commission or the Federal Government;

(v) Percentage of Federal participation in the cost of the activity for which the property was acquired;

(vi) Location, use and condition of the property and date this information was reported;

(vii) Unit acquisition cost; and

(viii) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where the Commission compensates the Department.

(2) Property owned by the Federal Government shall be marked to indicate Federal ownership.

(3) A physical inventory of property shall be taken and the result reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The Commission shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage or theft of the property. Any loss, damage or theft of property shall be investigated and fully documented; if the property was owned by the Federal Government, the Commission shall promptly notify the Department.

(5) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(6) Where the Commission is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

(g) *Expendable personal property.* Title to expendable personal property shall vest in the Commission upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination of Departmental funding, and the property is not needed for any other federally sponsored project or program, the Commission shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

(h) *Intangible Property*—(1) *Inventions and patents.* If any program produces patentable items, patent rights, processes, or inventions, in the course of work sponsored by Federal funds, such fact shall be promptly and fully reported to the Department of Commerce. The Department shall determine whether protection on the invention or discovery shall be sought. The Department will also determine how the rights in the invention or discovery—including rights under any patent issued thereon—shall be allocated and administered in order to protect the public interest consistent with the "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and statement of Government Patent Policy as printed in 36 FR 16889).

(2) *Copyrights.* The author or the Commission is free to copyright any books, publications, or other copyrightable materials developed in the course of or under a Federal agreement, but the Department of Commerce shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, republish, or otherwise use, and to authorize others to use, the work for Government purposes.

§ 540.212 Program income.

(a) The purpose of this section is to set standards for Commissions to account for program income related to projects financed in whole or in part with Federal funds.

(b) Program income represents gross income earned by a Commission from the federally supported activities. Such earnings exclude interest earned on advances and may include, but will not be limited to, income from service fees, sale of commodities, usage or rental fees, and royalties on patents and copyrights.

(c) Interest earned on advances of Federal funds to a Commission shall be remitted to the Department of Commerce.

(d) Proceeds from the sale of real and personal property either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with § 540.211 of this subpart pertaining to property management.

(e) The Commission shall have no obligation to the Federal Government with respect to royalties received as a result of copyrights produced under work aided by Federal funds. At the determination of allocation and administration rights in inventions and discoveries pursuant to § 540.211(h), the Department shall determine the Commission's obligation with respect to royalties received as a result of patents produced under work aided by Federal funds.

(f) All other program income earned shall be retained by the Commission and, in accordance with the transfer of Federal funds to the Commission, shall be:

(1) Added to funds committed to the particular activity from which the program income arose and used to further eligible program objectives; or

(2) Deducted from the total cost of the activity from which the program income arose in determining the net costs on which the Federal share of costs will be based.

§ 540.213 Procurement by Commissions.

(a) *Scope.* This section prescribes minimum standards for use by each Commission in establishing its own procedures for the procurement of supplies, equipment and services in part or in whole with funds provided by the Federal Government to the Commission.

(b) *Purpose.* These standards are furnished to ensure that materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and executive orders. No additional procurement standards or requirements shall be imposed by the Department of Commerce upon Commissions unless specifically required by Federal statute or executive orders.

(c) *Applicability.* (1) The standards in this section apply to contracting between a Commission and a contractor(s) whenever the principal purpose of the contract is the acquisition of property or services for the direct benefit or use of the Commission. The direct benefit or use may be either for an administrative purpose or for a programmatic purpose.

(2) Whenever the principal purpose of the contract is to benefit a third party and does not involve the acquisition of property or services for the direct benefit or use of the Commission, the standards in this section do not apply to the contracting, but the financial assistance requirements of §§ 540.205 and 540.206 shall apply to the contract. If the Commission determines on the record that the relationship between the Commission and the contractor for the benefit of a third party recipient requires that the contractor be bound by contractual rather than financial assistance requirements, the Commission may follow the standards of this section rather than the financial assistance requirements of this subpart. However, this paragraph does not authorize a Commission to substitute the standards of this section for the financial assistance standards of this subpart when there is a direct relationship between the Commission and a financial assistance recipient.

(d) *Commission responsibility.* The standards contained in this section do

not relieve a Commission of the contractual responsibilities arising under its contracts. The Commission is the responsible authority, without recourse to the Department of Commerce, or to the Federal Government, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into by the Commission in support of activities under financial assistance provided by the Federal Government, subject to any rights of legal appeal which a contractor may have. This includes, but is not limited to: disputes; claims; protests of awards; source evaluations or other matters of a contractual nature. Matters concerning violation of law are to be referred by the Federal and State Cochairmen, Commission members or the staff immediately to the local, state, and/or Federal authority as may have proper jurisdiction.

(e) *Commission Procedures.* A Commission may adopt its own procurement policies and procedures. However, all Commissions shall adhere to the standards set forth as follows:

(1) Extent of competition. A Commission shall conduct all procurement transactions (regardless of whether by formal advertising or by negotiation and without regard to dollar value) in a manner that provides, to the maximum extent practical, open and free competition. A Commission should be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to insure objective contractor performance and eliminate unfair competitive advantage, a contractor that develops or drafts for a particular procurement specifications; requirements; a statement of work; or invitations for bids or requests for proposals should be excluded from competing for the ensuing procurement.

(2) Awards shall be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the recipient, price and other factors considered.

(3) Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order for his bid/offer to be evaluated by the Commission. Any and all bids/offers may be rejected when it is in the Commission's interest to do so.

(4) Procurement procedures. Each Commission shall establish procurement procedures which provide for, at a minimum, the following procedural requirements:

(i) Before making an award, Commission officials shall review proposed procurement actions to avoid purchasing unnecessary or duplicative items. Where appropriate, these officials shall make an analysis of lease and purchase alternatives to determine which approach would result in the most economical, practical procurement.

(ii) Solicitations for goods and services, whether by formal advertising or negotiations, shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such descriptions shall not, in competitive procurement, contain features which unduly restrict competition. "Brand name or equal" descriptions may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by bidders/offerors shall be clearly specified.

(iii) Each Commission shall make positive efforts to utilize small business concerns and minority owned business enterprises as sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts utilizing Federal funds.

(iv) Type of procuring instruments. The type of procuring instrument used (i.e., fixed price contracts, cost reimbursable contracts, purchase order, etc.), shall be determined by the Commission but must be appropriate for the particular procurement and for promoting the best interest of the Commission program involved. (41 CFR 1–3.403 may be used for guidance in selecting the appropriate contract type.) The "cost-plus-a-percentage-of-cost-fee" method of contracting shall not be used.

(v) Responsible contractors. A Commission shall award a contract only to a responsible contractor who possesses the demonstrated ability to perform successfully under the terms and conditions of a proposed procurement. The Commission shall give consideration to such matters as contractor integrity, record of past performance, and financial and technical resources or accessibility to other necessary resources.

(vi) Sole source. All proposed sole source contracts, or where only one bid or proposal is received in which the aggregate cost is expected to exceed $5,000, shall not be approved until a written justification for the sole source, or one-bid, procurement is placed in the official project file.

(vii) Technical evaluations and cost or price analysis. Each Commission shall perform and document in the project files a technical evaluation and a cost or price analysis in connection with every procurement action, including contract modifications. (41 CFR 1–1.305, 306 and 307 provide guidance as to how to perform a technical evaluation.) Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Costs analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability. The method and degree of analysis, however, is dependent on the facts surrounding the particular procurement. The Commission should perform cost analysis when the offeror is required to submit the elements of his/her estimated cost for sole source procurements, and when adequate price competition is lacking, e.g., when only a single bid is received and it is impossible to perform a valid price analysis. Price analysis should be used in all other instances to determine the reasonableness of the proposed contract price.

(viii) Commission procurement records. Each Commission shall maintain records or files sufficient to detail the significant history of a procurement. These records or files shall include, but are not necessarily limited to, the following information:

(A) Rationale for the method of procurement;

(B) Basis for contractor selection;

(C) Justification for lack of competition when competitive bids or offers are not obtained;

(D) Basis for award cost or price; and

(E) Evidence of administering and monitoring actions during contract performance.

(ix) Contract administration. Each Commission shall maintain a system for contract administration to insure that contractors conform with the terms, conditions and specifications of the contract or purchase order, including modifications, to identify and endeavor to resolve conditions that might adversely affect the Commission's interest, and to insure adequate and timely followup of all purchases.

(5) Each Commission shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. These provisions shall also be applied to subcontracts.

(i) Contracts in excess of $10,000 shall contain contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances in which contractors violate or breach contract

terms, and provide for such remedial actions as may be appropriate.

(ii) All contracts in excess of $10,000 shall contain suitable provisions for termination by the Commission including the manner by which termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(iii) All contracts awarded by a Commission and its contractors or subgrantees having a value of more than $10,000 shall contain a provision requiring compliance with Executive Order 11264, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60–1).

(iv) Where applicable, all contracts awarded by a Commission in excess of $2,500 that involve the employment of mechanics or laborers shall include a provision for compliance with section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (20 CFR, Part 5). Under Section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard workday or workweek is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week.

(v) All contracts awarded by a Commission shall include a provision to the effect that the Commission, the Federal Cochairman, the Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific program for the purpose of making audit, examination, excerpts, and transcriptions. A Commission shall require its contractors to maintain all required records for three years after the Commission makes final payments.

(vi) Contracts and subgrants of amounts in excess of $100,000 shall contain a provision that requires the contractor or recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970, (42 U.S.C. 1857 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1252 et seq.), as amended. A Commission shall report violations to the Department of Commerce and the Regional Office of the Environmental Protection Agency.

Subpart C—Compliance

§ 540.301 Purpose.

This subpart describes procedures by which the Secretary of Commerce will monitor and evaluate Commission compliance with the requirements of this chapter and the program's authorizing statute.

§ 540.302 Evaluation.

(a) The Secretary shall establish monitoring and reporting procedures which may be necessary in order to determine compliance by each Commission with the authorizing statute and with the standards contained in this chapter.

(b) The Secretary shall periodically evaluate each Commission's performance and compliance with law.

§ 540.303 Audits.

In accordance with applicable Federal law and policy, the Secretary shall establish a schedule for audits of Commissions.

§ 540.304 Remedies for noncompliance.

(a) If a Commission fails to comply with any requirement in this Chapter or the authorizing statute, and after reasonable notice to the Commission, the Secretary may take such steps as may be necessary, including the suspension of funding for the Commission and the withholding of further payments pending corrective action by the Commission or other appropriate actions by the Department of Commerce.

(b) The Department shall provide an opportunity for a hearing in cases of suspension of funding and disallowed costs. This hearing will be in accord with any applicable Federal laws or policies.

Issued on: November 16, 1979.

Lawrence O. Houstoun, Jr.,

Special Assistant to the Secretary for Regional Development.

[FR Doc. 79-36008 Filed 11-21-79; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-SO-75; Amdt. No. 39-3616]

Embraer Model EMB-110P1 and EMB-110P2; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), which requires the inspection of the wing flap actuators for excessive wear of the two sealing rings and the ballscrew/nut assembly on EMBRAER Model EMB–110P1 and EMB–110P2 series airplanes. The AD is needed to prevent failure of either of the flap actuators which could result in a one-flap-up and the other-flap-down condition.

DATES: Effective November 30, 1979.

Compliance schedule—Within the next 25 hours time in service after the effective date of this AD and thereafter at intervals not to exceed 250 hours time in service.

ADDRESSES: The applicable Alert Service Bulletin 110–27–A43, may be obtained from Empresa Brasileira de Aeronautica S/A (EMBRAER), P.O. Box 343–CEP 12.200, Sao Jose dos Campos-SP, Brasil. A copy of the Brazilian Airworthiness Directive is contained in Room 275, FAA, Southern Region, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: C. W. Kaiser, Chief, Systems and Equipment Section, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (A/C 404) 763–7781.

SUPPLEMENTARY INFORMATION: There has been a report of a failure of a wing flap actuator in the EMB–110 airplane caused by moisture penetrating the ballscrew mechanism resulting in corrosion of the mechanism with the resultant loss of the balls. The affected flap may retract due to the air load, leaving the other flap extended. Since this condition is likely to develop on other airplanes of the same type design, an Airworthiness Directive is being issued which requires the inspection of the actuators for excessive wear of the sealing rings and the ballscrew mechanism on EMBRAER Model EMB–110P1 and EMB–110P2 airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and

good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

EMBRAER: Model EMB–110P1 and EMB–110P2 series airplanes, certificated in all categories.

Compliance is required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 250 hours' time in service. To prevent failure of the wing flap actuators (EEMCO Part No. D2246–4), accomplish the following:

(a) Prepare the wing flap actuators for inspection by extending the flaps to the fully extended position.

Caution

Make sure that the Battery Switch is "Off" and that flaps are not inadvertently operated while the flap actuators are being serviced.

(b) Disconnect each wing flap from actuator lug by removing cotter pin, nut, washer, and attaching bolt.

Note.—When removing the attaching bolt, provide a support for flap to prevent its rotation and possible damage.

(c) Remove safety wire and four retaining screws from outer cover of actuator.

(d) Slide the inner and outer covers toward the reduction gear box to expose the threaded shaft, which should then be cleaned in accordance with good aircraft practices.

(e) While manually retracting and extending threaded shaft, determine:

(1) General condition of shaft.

(2) Movement of shaft while turning it by hand—must be free and smooth.

(3) Longitudinal motion of shaft in the ballscrew/nut assembly—play must be practically undetectable by handling manually.

(4) That the transverse motion of ballscrew/nut assembly, measured at the rod end of the shaft does not exceed .080 inch, when shaft is fully extended.

(5) General condition of ballscrew/nut assembly and security of ball return tube and related clamp.

(f) Inspect for damage and wear of sealing rings in inner and outer actuator covers, used to protect ballscrew and threaded shaft from moisture and dirt.

(g) If any of the items inspected in sections (e) and (f) above are not satsfactory, the actuator must be repaired, overhauled, or replaced, as necessary.

(h) Lubricate the threaded shaft by brush-daubing it with MIL–G–23827 grease.

(i) Rotate the threaded shaft to the fully extended position.

(j) Slide the outer cover aft to the proper position on the rod end cap.

(k) Install the four retaining screws and safety wire.

(l) Reconnect the flap to the actuator lug by installing attaching bolt, washer, nut, and cotter pin.

(m) Check for proper operation and rigging of the wing flaps and flap position indication according to EMBRAER Technical Manual T.O. 1C95–2–5.

Note.—

EMBRAER Alert Service Bulletin 110–27–A43 covers the procedures and specifications incidental to this AD.

Compliance with the provisions of this AD may be accomplished in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, Southern Region.

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

This amendment is effective November 30, 1979.

Sections 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)), 14 CFR 11.89.

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Georgia, on November 6, 1979.

Louis J. Cardinali,

Director, Southern Region.

[FR Doc. 79–35683 Filed 11–21–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 79–WE–30–AD; Amdt. 39–3618]

McDonnell Douglas DC–9 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective to all persons an amendment adopting an airworthiness directive (AD) which was previously made effective to all known operators of McDonnell Douglas Model DC–9 series airplanes by telegraphic messages dated September 18, 1979 and September 28, 1979. This AD was required because of failure of the aft pressure bulkhead has resulted in cabin decompression and degraded flight and powerplant control functions.

DATES: Effective December 24, 1979, and was effective earlier for all recipients of telegraphic AD T79WE13 dated September 18, 1979 and telegraphic AD T79WE15 dated September 28, 1979.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846. Attention: Director, Publications and Training C1–750 (54–60).

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

SUPPLEMENTARY INFORMATION: An emergency airworthiness directive was adopted September 18, 1979 and superseded on September 28, 1979. The ADs were made effective immediately upon receipt of telegrams to all known U.S. operators of DC–9 series airplanes. The AD was necessary because of a failure of the aft pressure bulkhead which resulted in cabin depressurization and degraded flight and powerplant control functions. The AD requires visual and X-ray inspections of the aft pressure bulkhead on airplanes equipped with non-ventral door aft pressure bulkhead P/N 5910163.

Subsequent to issuing these telegrams the FAA determined that the request for special reports should be limited to the initial inspections and that provisions should be made for equivalent level of safety actions. These changes are relieving and impose no additional burden on any person, therefore the AD has been changed accordingly.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impractical and contrary to the public interest, and good cause existed to make the ADs effective immediately as to all operators of the McDonnell Douglas DC–9 series airplanes. These conditions still exist and the amended AD is hereby published in the **Federal Register** as an amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

McDonnell Douglas: Applies to McDonnell Douglas Model DC–9 series airplanes,

certificated in all categories, equipped with the non-ventral door aft pressure bulkhead P/N 5910163, and with more than 10,000 landings.

Compliance required as indicated.

To detect fatigue cracks and prevent failure of the aft pressure bulkhead, accomplish the following:

(a) For aircraft not previously modified or repaired in accordance with McDonnell Douglas DC–9 Service Bulletin 53–127 dated May 25, 1976, accomplish the following:

(1) Within 10 landings after the effective date of this AD, unless already accomplished in accordance with telegraphic AD T79WE13 dated September 18, 1979 or telegraphic AD T79WE15 dated September 28, 1979, conduct an initial visual inspection per Step 1, Figure 1, of McDonnell Douglas DC–9 Alert Service Bulletin A53–127, Revision 1, dated September 26, 1979. The visual inspection shall encompass the entire periphery of the emergency exit doorjamb structure.

(2) Within 100 landings after the effective date of this AD, unless already accomplished in accordance with telegraphic AD T79WE15 dated September 28, 1979, conduct both visual and X-ray inspections per Steps 3 through 10, Figure 1, of McDonnell Douglas DC–9 Alert Service Bulletin A53–127, Revision 1, dated September 26, 1979. The visual portion of the inspection shall encompass the entire periphery of the doorjamb structure.

(3) Within 250 landings of the inspection required by paragraph (a)(2) of this AD and thereafter at intervals not to exceed 250 landings, conduct a visual inspection per Step 1, Figure 1, of McDonnell Douglas DC–9 Alert Service Bulletin A53–127, Revision 1, dated September 26, 1979. The visual inspection shall encompass the entire periphery of the emergency exit doorjamb structure.

(4) Within 1,000 landings from the inspection required by paragraph (a)(2) and thereafter at intervals not to exceed 1,000 landings, conduct X–ray inspections per Steps 8 through 10 and a visual inspection per Step 1, Figure 1, of McDonnell Douglas DC–9 Alert Service Bulletin A53–127, Revision 1, dated September 26, 1979. The visual inspection shall encompass the entire periphery of the emergency exit doorjamb structure.

(b) For aircraft previously modified or repaired per McDonnell Douglas DC–9 Service Bulletin 53–127 dated May 25, 1976, accomplish the following:

(1) Within 100 landings after the effective date of this AD, unless already accomplished subsequent to September 25, 1979, conduct X-ray inspections per Steps 8 through 10, Figure 1, of McDonnell Douglas DC–9 Alert Service Bulletin A53–127, Revision 1, dated September 26, 1979, and a visual inspection of the entire periphery of the emergency exit doorjamb structure.

(2) Within 2,000 landings after inspection per paragraph (b)(1) of this AD and thereafter at intervals not to exceed 2,000 landings, conduct X-ray inspections of the jamb structure per Steps 8 through 10, Figure 1, of McDonnell Douglas DC–9 Alert Service Bulletin A53–127, Revision 1, dated September 26, 1979, and a visual inspection of the entire periphery of the emergency exit doorjamb structure.

(c) If cracks are found during any of the inspections required by this AD, repair before further flight in accordance with the following:

(1) For cracks which are limited to the emergency exit doorjamb, repair as shown for Condition 2, Figure 2, of McDonnell Douglas DC–9 Alert Service Bulletin A53–127, Revision 1, dated September 26, 1979.

(2) For cracks which extend through the emergency exit doorjamb and into the pressure bulkhead web, repair as shown for Condition 3, Figure 3, of McDonnell Douglas DC–9 Alert Service Bulletin A53–127, Revision 1, dated September 26, 1979.

(3) For cracks for which no repair is prescribed in McDonnell Douglas DC–9 Alert Service Bulletin A53–127, Revision 1, dated September 26, 1979, repair in accordance with FAA approved data.

(d) Within 24 hours after the initial inspections per paragraph (a)(2) and paragraph (b)(1), report the results of the initial inspections by Telex to the Chief, Aircraft Engineering Division, FAA Western Region. Include in the reporting information the date and condition of modification or repair per DC–9 Service Bulletin 53–127 or A53–127, McDonnell Douglas fuselage number, factory serial number, and registration number.

(e) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplanes unpressurized to a base where the inspections or crack repair can be performed.

(g) For the purposes of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours time in service by the operator's fleet average time from takeoff to landing for the DC–9 airplane.

This amendment becomes effective December 24, 1979 and was effective upon receipt for all recipients of telegraphic AD T79WE13 dated September 18, 1979 and telegraphic AD T79WE15 dated September 28, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Issued in Los Angeles, California on November 8, 1979.

William R. Krieger,

Acting Director, FAA Western Region.

[FR Doc. 79-35684 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-13-M

[Docket No. 79-ASW-54; Amdt. 39-3612]

14 CFR Part 39

Mitsubishi Aircraft International, Inc., Models MU–2B Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires wiring modifications on the Mitsubishi Aircraft International, Inc., (MAI) Models MU–2B series airplanes. The AD is needed to prevent the accidental pumping of fuel overboard which could result in ground or in-flight fires.

DATE: Effective November 21, 1979. Compliance required within the next 50 hours' time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable Service Bulletins may be obtained from Mitsubishi Aircraft International, Inc., Post Office Box 3848, San Angelo, Texas 76901. A copy of these Service Bulletins is contained in the Rules Docket, at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: A. A. Backstrom, Propulsion Section, Engineering and Manufacturing Branch, ASW–214, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas 76101, telephone number 817–624–4911, extension 524.

SUPPLEMENTARY INFORMATION: The FAA has determined that improper usage of the fuel transfer switches may result in pumping up to 70 gallons of fuel overboard. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires revision to the airplane wiring so fuel will not be pumped overboard even when improper usage of the fuel transfer switches is attempted on the MAI Model MU–2B series airplanes.

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is

amended by adding the following new airworthiness directive:

Mitsubishi Aircraft International, Inc., (MAI). Applies to MAI Model MU-2B series, serial numbers 354SA, 356SA, 374SA, 387SA, 392SA, 393SA, 709SA, 723SA, 728SA, and other aircraft which have previously complied with Service Recommendation No. SR017/28-001, dated July 25, 1979; MU-2B-40, serial numbers 395SA through 412SA, 414SA, and 416SA; Model MU-2B-60, serial numbers 731SA through 747SA and 749SA through 757SA.

Compliance is required within the next 50 hours' time in service after the effective date of this airworthiness directive, unless already accomplished, except that the airplane may be flown in accordance with FAR 21.197 to a base where the modifications can be performed.

To prevent pumping fuel overboard, accomplish the following: Modify outer fuel tank switch wiring in accordance with Mitsubishi Aircraft International Service Bulletin No. SB013/28-001, dated October 18, 1979; or Service Bulletin No. SB014/28-002, dated October 18, 1979, as applicable; or an equivalent method.

Mitsubishi Aircraft International, Inc., Service Bulletin No. SB013/28-001 and Service Bulletin No. SB014/28-002 pertain to and provide instructions for accomplishing the intent of this AD. The manufacturer's procedures identified and described in this directive are incorporated herein and made a part thereof pursuant of U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Mitsubishi Aircraft International, Inc., Post Office Box 3848, San Angelo, Texas 76901. These documents may also be examined at Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76106.

This amendment becomes effective November 21, 1979.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 142, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

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

Issued in Fort Worth, Texas, on November 5, 1979.

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

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 79-35682 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-CE-13]

Designation of Federal Airways, Area Low Point Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area—Forest City, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Forest City, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Forest City, Iowa Municipal Airport based on a Non-Directional Radio Beacon (NDB), a navigational aid, being installed on the airport by the City of Forest City, Iowa. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: Effective January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the Forest City Municipal Airport, Forest City, Iowa, is being established based on a Non-Directional Radio Beacon (NDB), a navigational aid, being installed on the airport by the City of Forest City, Iowa. The establishment of an instrument approach procedure based on this approach aid entails the alteration of the transition area at Forest City, Iowa, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 50857 of the **Federal Register** dated August 30, 1979, the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Forest City, Iowa. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979 (44 FR 442), is amended effective 0901 GMT January 24, 1980, by altering the following transition area:

Forest City, Iowa

That airspace extending upward from 700 feet above the surface within a 8½ mile radius of the Forest City Municipal Airport (latitude 43°14'00" N, longitude 93°37'30" W). Excluding that portion overlying the Mason City, Iowa, 700 foot transition area.

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

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

Issued in Kansas City, Missouri, on November 9, 1979.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 79-35879 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-EA-60]

Designation of Federal Airways; Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Transition Area: Deferiet, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule will designate a temporary Deferiet, N.Y., Transition Area. This designation will provide protection for military aircraft participating in a military joint readiness exercise called Empire Glacier '80. The nature of the exercise requires a controlled medium and separation of military and other users of the airspace.

EFFECTIVE DATE: 0901 GMT January 2, 1980.

FOR FURTHER INFORMATION CONTACT: Charles J. Bell, Airspace and Procedures

Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment is to designate a temporary transition area in which a military readiness exercise may be conducted. The exercise is scheduled for January and February 1980.

The area involved extends generally from north through sought around the Great Bend, N.Y., 700-foot floor transition area to an average distance of 10 miles. Since the commencement of the exercise is January 2, 1980, notice or public procedure hereon are impractical and good causes exists for making the rule effective in less than 30 days.

Drafting Information

The principal authors of this document are Charles J. Bell, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 January 2, 1980, as follows:

§ 71.181 [Amended]

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a temporary 700-foot floor transition area as follows:

Deferiet, N.Y.

That airspace extending upward from 700 feet above the surface bounded by latitude 44°17'59"N, longitude 75°42'29"W, clockwise along a 17-mile arc centered at latitude 44°03'00"N, longitude 75°44'00"W (Wheeler-Sack, NY Airport) to latitude 44°09'00"N, longitude 75°25'00"W to latitude 44°00'00"N, longitude 75°14'50"W, to latitude 43°53'30"N, longitude 75°14'50"W, to latitude 43°53'30"N, longitude 75°29'10"W, to latitude 43°43'40"N, longitude 75°44'30"W, to latitude 43°50'30"N, longitude 75°53'30"W, to latitude 44°04'10"N, longitude 75°49'10"W to the point of beginning. This transition area is effective from January 2, 1980, to February 1, 1980.

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Jamaica, New York on October 29, 1979.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 79-35878 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-SO-76]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Auburn, Ala., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Auburn, Alabama, Transition Area. The name of the Auburn-Opelika Airport has been changed to Auburn-Opelika Robert G. Pitts Airport. The action of Auburn University, officially changing the Airport name, requires this to be reflected in the Transition Area description.

EFFECTIVE DATE: January 24, 1980.

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

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: Auburn University officially changed the name of the Auburn-Opelika Airport to Auburn-Opelika Robert G. Pitts Airport. Therefore, it is necessary to alter the description of the Auburn, Alabama, Transition Area to reflect the name change. Since this alteration is editorial in nature, notice and public procedure hereon are not necessary.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, January 24, 1980, by altering the Auburn, Alabama, Transition Area as follows:

"* * * Auburn-Opelika Airport * * * is deleted and

"* * * Auburn-Opelika Robert G. Pitts Airport * * * " is substituted therefor.

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

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

Issued in East Point, Georgia, on November 6, 1979.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 79-35676 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-13-M

[Airspace Docket No. 79-RM-26]

14 CFR Part 71

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Alteration of Transition Areas and Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the 700' and 1,200' transition areas and control zone at Gillette, Wyoming to provide controlled airspace for aircraft executing the new localizer runway 33, standard instrument approach procedure to the Gillette-Campbell County Airport, Gillette, Wyoming and additional controlled airspace for holding aircraft and for air traffic control purposes.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

History

On September 26, 1979, the FAA published for comment a Notice of Proposed Rulemaking (NPRM) to alter the 700' and 1,200' transition areas and control zone at Gillette, Wyoming (44 FR 57935). No objections were received in response to this notice.

The Rule

This amendment to subparts F and G of Part 71 of the Federal Aviation Regulations amends the 700' and 1,200' transition areas and control zone at Gillette, Wyoming. This action is necessary to provide controlled airspace for aircraft executing the new localizer runway 33, standard instrument approach procedure to the Gillette-Campbell County Airport, Gillette, Wyoming, and to provide controlled airspace for holding aircraft and for air traffic control purposes.

Drafting Information

The principal authors of this document are David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, office of Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 GMT, January 24, 1980, as follows:

By amending subpart F, section 71.171 (44 FR 353) by altering the following control zone:

Gillette, Wyo.

Within a 5-mile radius of the Gillette-Campbell County Airport (latitude 44°20'52"N., longitude 105°32'34"W.); and within 3.5 miles each side of the Gillette VOR 171° radial extending from the 5-mile radius to 14 miles south of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective time will thereafter be continuously published in the Airman's Information Manual.

By amending subpart G, section 71.181 (44 FR 442) by altering the following transition areas:

Gillette, Wyo.

That airspace extending upward from 700 feet above the surface within 7 miles east and 9.5 miles west of the Gillette VOR (latitude 44°20'52"N., longitude 105°32'34"W.) 176° and 356° radials, extending from 17.5 miles south to 18.5 miles north of the VOR, and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 44°47'00"N., longitude 106°22'30"W.; to latitude 44°23'00"N., longitude 106°22'30"W.; to latitude 44°16'00"N., longitude 105°58'00"W.; to latitude 44°05'00"N., longitude 106°00'00"W.; to latitude 43°49'15"N., longitude 106°09'30"W.; to latitude 43°39'00"N., longitude 106°00'00"W.; to latitude 43°39'00"N., longitude 105°09'00"W.; to latitude 44°08'00"N., longitude 105°09'00"W.; to latitude 44°01'00"N., longitude 104°51'00"W.; to latitude 44°30'00"N., longitude 104°41'00"W.; thence to point of beginning.

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

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

Issued in Aurora, Colorado on November 9, 1979.

M. M. Martin,

Director, Rocky Mountain Region.

[FR Doc. 79-35674 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 79-SO-74]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area, Salisbury, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule redesignates an extension and corrects the geographic location of the Salisbury RBN in the Salisbury, North Carolina, Transition Area. This action provides controlled airspace required to protect instrument flight operations at the Rowan County Airport.

EFFECTIVE DATE: December 6, 1979.

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

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: In the Salisbury, North Carolina, Transition Area described in § 71.181 (44 FR 442), an extension was designated on the 017° bearing from the Salisbury RBN to provide controlled airspace for aircraft executing the NDB-A standard instrument approach procedure at the Rowan County Airport. The final approach course and geographic location of the Salisbury RBN have been changed. It is necessary to redesignate the extension and correct the RBN location in order to provide the required controlled airspace to protect aircraft executing the approach procedure.

Since this amendment is minor in nature and creates no burden on the public, notice and public procedures hereon are unnecessary.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT December 6, 1979, as follows:

Salisbury, N.C.

"* * * 017° bearing from Salisbury RBN (latitude 35°40'29" N., longitude 80°30'22" W.) * * *" is deleted and "* * * 023° bearing from Salisbury RBN (latitude 35°40'27" N., longitude 80°30'22" W.) * * *" is substituted therefor.

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

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

Issued in East Point, Georgia, on November 5, 1979.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 79-35675 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 79-WE-14]

Special Use Airspace; Establishment of Temporary Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a temporary joint use restricted area in the vicinity of Yuma, Ariz., to contain the testing and development of military drones by the U.S. Army. This action provides for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the temporary restricted area during the hours the area is activated.

EFFECTIVE DATE: November 29, 1979.

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

SUPPLEMENTARY INFORMATION: On October 11, 1979, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to establish temporary restricted area R-2311 Army Proving Grounds, Yuma, Ariz., to contain the developmental testing of military drones (44 FR 58746). The only activity to be conducted in this area is flight operations of military drones

which travel at speeds in excess of 400 miles per hour. Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received that objected to the proposal. Section 73.23 was republished in the Federal Register on January 3, 1979, (44 FR 672).

The Rule

This amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) establishes temporary restricted area R–2311 Army Proving Grounds, Yuma, Ariz., to protect nonparticipating aircraft during the times that R–2311 is activated. The Commander, Yuma Proving Ground, will release the airspace for public use immediately on completion of the drone flights. Chief, Facility Engineering Dire Directorate, has provided the certificate indicating that the requirements of the National Environmental Protection Act (NEPA) has been met.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of Part 73 of the Federal Avation Regulations (14 CFR Part 73) as republished (44 FR 672) is amended, effective 0901 GMT, November 29, 1979, as follows:

Under § 73.23 the following temporary restricted area is added: R–2311 Army Proving Grounds, Yuma, Ariz. Boundaries. Beginning at Lat. 33°05'00"N., Long. 113°39'04"W.; to Lat. 33°05'00"N., Long. 113°21'00"W.; to Lat. 33°01'00"N., Long. 113°21'00"W.; to Lat. 32°53'50"N., Long. 113°36'20"W.; to Lat. 32°52'50"N., Long. 113°50'10"W.; to Lat. 32°58'00"N., Long. 113°37'20"W.; to Lat. 33°02'00"N., Long. 113°37'20"W.; to Lat. 33°02'00"N., Long. 113°39'04"W.; to point of beginning.

Designated altitudes. 1500 feet MSL to 5500 feet MSL.

Time of designation. Continuous 0600 to 1200 local time daily, December 1, 1979, through September 30, 1980; and from April 1, 1981, through March 31, 1982. Other times by NOTAM 24 hours in advance.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. Commanding Officer, U.S. Army Proving Ground, Yuma, Ariz.

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

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

Issued in Washington, D.C., on November 16, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–35974 Filed 11–21–79; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 73

[Airspace Docket No. 79–AL–21]

Special Use Airspace; Alteration of Restricted Areas Controlling Agency

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the location of the controlling agency for Yukon, Alaska, R–2205 and Blair Lakes, Alaska, R–2211 restricted areas from Eielson Approach Control and Eielson RAPCON to Fairbanks Approach Control.

EFFECTIVE DATE: November 23, 1979.

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

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 73 is to change the location of the FAA facility that is the controlling agency of R–2205 and R–2211. Because this action merely identifies the present location of the controlling agency without changing the agency, it is administrative in nature and a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary and good cause exists for making this action effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.22 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (44 FR 671) is amended, effective November 23, 1979, as follows:

In R–2205 Yukon, Alaska, under Controlling agency. "Federal Aviation Administration, Eielson Approach Control." is deleted and "FAA, Fairbanks Approach Control." is substituted therefor.

In R–2211 Blair Lakes, Alaska, under Controlling agency. "Federal Aviation Administration, Eielson RAPCON." is deleted and "FAA, Fairbanks Approach Control." is substituted therefor.

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

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

Issued in Washington, D.C., on November 16, 1979.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79–36086 Filed 11–21–79; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–16348]

Information Required in Solicitation of Proxies Other Than by the Issuer

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting an amendment to its rules and regulations providing for the filing of a statement in triplicate, by participants in a proxy solicitation other than the issuer, containing the information specified in Schedule 14B, with both the Commission and with each national securities exchange upon which any security of the issuer is listed and registered. Formerly, copies of such information were required to be filed in duplicate, resulting in their unavailability in the Public Reference Room for at least fifteen days. This increase will permit the distribution of these three copies respectively among the Office of Reports and Information Services, the branches in the Division of Corporation Finance, and the Commission's Public Reference Room. Furthermore, the national securities exchanges have also indicated that a third copy of the statement containing the information specified in Schedule 14B be submitted to them for their particular purposes.

EFFECTIVE DATE: December 24, 1979.

FOR FURTHER INFORMATION CONTACT:
Mary A. Binno, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C., 20549 (202) 272–2604.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of an amendment to Rules 14a–11(c) (1) and (2) [17 CFR 240.14a–11(c) (1) and (2)] under the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq. as amended by Pub. L. No. 94–29 (June 4, 1975)].

The amendments require those persons making a solicitation pursuant to Rule 14a–11 to file the information specified by Schedule 14B in triplicate with both the Commission and the national securities exchanges. This increase in the number of copies required to be filed will facilitate the immediate availability of such documents for use in the Commission's Public Reference facilities and will expedite their review and processing in the respective branches of the Division of Corporation Finance. Moreover, inquiries made of several of the national securities exchanges have also indicated that the increase is necessary for their particular purposes.

Amendments

Accordingly, 17 CFR Part 240 is amended by deleting the word "duplicate" in paragraphs (c) (1) and (2) of § 240.14a–11 and substituting the word "triplicate" therefor.

Certain Findings

The Commission finds that the foregoing amendments are minor and technical in nature and, accordingly, that notice and prior publication for comment under the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

The Commission has considered the impact of such amendments on competition as required by Section 23(a)(2) of the Exchange Act [15 U.S.C. 78w(a)(2)] and has concluded that there is none.

Statutory Authority

The amendments are adopted pursuant to Section 23(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(a)(1)).

By the Commission.

George A. Fitzsimmons,
Secretary.

November 16, 1979.

[FR Doc. 79–36033 Filed 11–21–79; 8:45 am]
BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 271 and 274

[Docket No. RM79–72]

Clarification of and Amendments to the Regulations and Amendment to the Interim Regulations Implementing the Natural Gas Policy Act of 1978

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rules.

SUMMARY: The Commission is clarifying its final regulations implementing section 103 of the Natural Gas Policy Act, which establishes the maximum lawful price for gas from new, onshore production wells. Also, the Commission is amending the final regulations regarding the well spacing requirements and the special rule applicable to existing proration units. Also, it is amending its interim regulations with regard to requirements for filing with jurisdictional agencies consistent with the amendments to the special rule.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT:
Thom Hirsch, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8511.
Howard Kilchrist, Director of NGPA Compliance, Office of Pipeline & Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8585.

SUPPLEMENTARY INFORMATION:

Final rule amending regulations on natural gas from new, onshore production wells and amendment to the filing requirements in § 274.204 of the interim regulations; Order No. 43–A Order Granting in Part and Denying in Part Rehearing of Order No. 43 and Amending Regulations [Docket No. RM 79–72] (Issued November 16, 1979).

On August 20, 1979, the Commission in Order No. 43 (44 FR 49651) issued final regulations implementing section 103 of the Natural Gas Policy Act of 1978 (NGPA),[1] which concerns new, onshore production wells. Eight petitions for rehearing of Order No. 43 have been received by the Commission.[2] After consideration of the comments contained in the petitions, the Commission will grant in part rehearing of Order No. 43, amend Subpart C of Part 271 of the final regulations and Subpart B of Part 274 of the interim regulations and clarify certain aspects of Order No. 43.[3]

Special Rule Respecting Existing Proration Units

Each of the rehearing petitions addressed § 271.305 of the final regulations, the special rule applicable to existing proration units. The special rule, as set forth in Order No. 43, provides that in order for a second well on an existing proration unit to qualify as a new, onshore production well, the appropriate jurisdictional agency must explicitly find, prior to drilling, that the second well "is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit." The special rule also required that, if allowables had been set for the unit by a State regulatory agency, the jurisdictional agency must set separate allowables for both the existing well and the new well.

In Order No. 43, the Commission indicated that a redefined proration unit would be recognized as a proration unit for purposes of section 103 only where the agency, in creating the unit, had made an explicit finding prior to the

[1] 15 U.S.C. § 3301 *et seq.* (1978).

[2] Petitions for rehearing were filed by Sun Gas Company (Sun Gas); Amoco Production Company (Amoco); El Paso Natural Gas Company (El Paso); the State of New Mexico; the Texas Railroad Commission (Texas); Consolidated Oil & Gas, Inc., Four Corners Gas Producers Association an Independent Petroleum Association of New Mexico, jointly, (New Mexico Producers); Indicated Oklahoma Producers (Oklahoma Producers) and the Indicated Producers. The deadline for filing the petitions for rehearing was September 19, 1979. The petition of the New Mexico Producers was stamped by the Office of the Secretary of the Commission on September 20, 1979. The Commission finds that the petition of the New Mexico Producers is untimely filed. However, in light of the importance of the final regulations at issue here, the Commission hereby waives the filing deadline requirement as it applies to the New Mexico Producers.

[3] On October 15, 1979, the Commission received a supplemental filing by Texas, wherein Texas requested that the Commission not apply any additional requirements imposed by Order No. 43 to wells drilled prior to issuance of the order. Texas also requested that the Commission suspend the effectiveness of Order No. 43 in general and hold further conferences to hear and consider additional comments by the jurisdictional agencies on section 103 of the NGPA. The only additional requirement imposed by Order No. 43 was the requirement that in certain situations the agencies must set separate allowables for each well on a proration unit. The requirement has been eliminated, *infra*. We do not find good cause to suspend the final rule, and, accordingly, we will not stay the effectiveness of the rule as modified by this Order.

drilling of a new well that the well was necessary for effective and efficient drainage. In so stating, the Commission made clear that the new well, although it is the first well on a redefined proration unit, would nevertheless be subject to the special rule.

The petitions on rehearing on Order No. 43 raised questions regarding the timing of the effective and efficient drainage finding, the special rule's applicability to redefined proration units, the definition of existing well and the allowables rule. In reconsideration of Order No. 43, the Commission hereby amends its rules regarding the timing of the effective and efficient drainage finding and the definition of existing well for purposes of the special rule. Also, the Commission is modifying its view of the applicability of the special rule to redefined proration units. Finally, the Commission is deleting the allowables rule and is proposing, in a separate rulemaking, to accomplish the objectives of the allowables rule through a more appropriate device.

The Oklahoma Producers and Sun Gas object to the requirement in § 271.305 that the finding regarding the effective and efficient drainage of the proration unit be made prior to the drilling of the new well. The Oklahoma Producers submit that in Oklahoma, appropriate procedures are not available for making the finding prior to drilling. Moreover, these producers submit that even if Oklahoma conducted the necessary proceedings prior to drilling, the proceedings would have no legitimate purpose under Oklahoma law. The Oklahoma Producers contend that in establishing the possibility of alternative procedures in § 271.305(e), the Commission has already recognized that the effective and efficient drainage finding is not required, under the NGPA, prior to drilling. It is requested that the Commission allow the finding to be made as part of the well category determination by the jurisdictional agency, especially where the first well in the unit is no longer producing. Sun Gas adds that this requirement of a prior finding causes substantial delay in the drilling of new wells and thus, in getting new gas supplies to market.

The most obvious shortcoming of requiring the finding prior to the drilling of the new well is a practical one. In many cases, only after the well has been drilled can the appropriate engineering and geological data be collected to make a reasonable determination as to whether the new well is necessary to effectively and efficiently drain the relevant portion of the reservoir. Indeed, in all cases, a more accurate determination can be made after drilling and the collection of more accurate data.

Moreover, the Commission is concerned that by requiring that the effective and efficient drainage finding be made prior to drilling, the drilling of many new, onshore production wells may be unnecessarily delayed. Such delays frustrate the underlying Congressional policy embodied in section 103 of the NGPA to spur the development of new production wells.

The Commission recognizes the difficulty of this issue concerning the timing of the effective and efficient drainage finding. We have therefore re-examined the words of both section 2(8) and section 103 of the NGPA and have determined that the NGPA explicitly directs the nature of the finding which must be made but does not limit the Commission's discretion with regard to what is essentially a procedural decision: the appropriate time for the decision to be made.

Section 103 clearly requires that a well may receive the section 103 price only upon a finding that the well must be necessary to effectively and efficiently drain the reservoir. The Commission does not propose to vary from the statutory requirement that this finding be made. However, the Commission is persuaded by the arguments of the States and the producers that often this finding can be made most appropriately after the well has been drilled.

Arguably, this interpretation is in conflict with a literal reading of the Joint Statement of Managers,which says that "[i]n all cases, the unit must be designated prior to drilling the new well." [4] However, on re-examination of this issue we believe the unintended and detrimental effects of a strict literal application of this admonition can and should be avoided.

We believe that the purpose of this language in the legislative history is to make clear that the effective and efficient drainage finding must be based on facts concerning conditions as they existed prior to the drilling of the new well, and should not be read literally to preclude a jurisdictional agency from adducing evidence of those facts at a later time, when more complete and informative data is available. This interpretation is particularly compelling in light of policy considerations which favor an interpretation which promotes production, encourages administrative efficiency and avoids anomalous results.

[4] S. Rep. No. 95–1752, 95th Cong., 2d Sess. 81 (1978).

We are of the view that the statutory command can be met, if, on the basis of engineering and geological data (including data obtained after drilling) the jurisdictional agency can reasonably conclude that as of the time of the commencement of surface drilling the specific well was necessary for the effective and efficient drainage of the reservoir. In a case where the only data available to the jurisdictional agency is data obtained after the commencement of surface drilling, the agency may make the effective and efficient drainage finding solely on the basis of that data; the Commission presumes that a finding so supported could have been made at the time drilling commenced, and will regard it as if it had been made at that time.

Section 271.305 will be amended to reflect this change in the Commission's policy and interpretation of section 103, including the deletion of the rule formerly in § 271.305(c) for wells drilled during the transitional period prior to the NGPA. However, it should be noted that where a jurisdictional agency has already made the finding previously required by § 271.305(c), such finding will be accepted by the Commission as satisfying the requirement of the effective and efficient drainage finding under § 271.305(b) for the subject well.

This change in Commission policy regarding the timing of the effective and efficient drainage finding would also alleviate another anomalous result in the case where a producer commences drilling and encounters multiple reservoirs. In such a situation the producer, under our previous requirements, could unexpectedly encounter a reservoir which is not being effectively and efficiently drained by an existing well, but would not be able to collect the section 103 price for gas produced from the reservoir because the appropriate finding did not precede the surface drilling. Our present action avoids such results.

In view of our decision as explained above, the Commission believes that it is similarly appropriate to recognize for the purposes of section 103(c)(2) a waiver or alteration of well-spacing requirements where the waiver or alteration is granted by the jurisdictional agency after drilling of the new well. For example, where the new well penetrates more than one reservoir, the jurisdictional agency might not decide to waive its well-spacing requirements as to a certain reservoir until the agency has found that the well is needed to effectively and efficiently drain that particular reservoir. As noted, especially in the multiple reservoir

situation the effective and efficient drainage finding as to some reservoirs is most appropriately made after the well is drilled. Thus, the Commission will no longer require that the alteration or grant of a waiver of well-spacing requirements be made prior to drilling of the new well. Accordingly, § 271.304 is amended to reflect this change.

The next issue raised in the petitions for rehearing concerns the applicability of the special rule where the jurisdictional agency has redefined the boundaries of the existing proration unit designating a new proration unit, prior to the drilling of a new well. Texas submits that § 271.305 should not apply where the new well would have been the second well on a previously existing proration unit, but because of the designation of the new unit is now the first well on the proration unit.

Texas notes that it designates proration units on the basis of the ability of a well (which is to be drilled on the unit) to effectively and efficiently drain the reservoir; thus, Texas argues, the proration unit designation constitutes and implicit effective and efficient drainage finding made prior to the commencement of surface drilling, and should be accepted as such. They conclude, therefore, that the new well, being the only well on the new proration unit designated prior to the commencement of surface drilling, should qualify as a new, onshore production well without the jurisdictional agency being required to make an explicit effective and efficient drainage finding under § 271.305 regarding that well prior to the commencement of drilling. The Indicated Producers make an argument similar to that of Texas.

After reconsidering this matter and reviewing the legislative history of section 103, the Commission now believes that a modification in interpretation of the final regulations is appropriate.

The Commission notes that this issue highlights a possible distinction between the concept of a "State law proration unit" which is used by the States in regulating natural gas production and the concept of "NGPA proration unit" which is defined in the NGPA and the Commission's regulations. A State law proration unit—that is, a proration, production or drilling unit established by a State—is a production area designated on the basis of criteria which may vary from State to State; e.g., correlative rights or State conservation laws. In contrast, an NGPA proration unit is defined in section 2(8) of the NGPA as a portion of a reservoir designated or recognized in a variety of ways as that portion of the reservoir which can be effectively and efficiently drained by a single well.

For the purposes of section 103, the jurisdictional agency can designate or recognize an NGPA proration unit in two ways. First, if the jurisdictional agency *explicitly* finds for purposes of § 271.305 that a second well on a State law proration unit is necessary to effectively and efficiently drain a portion of that unit, for section 103 purposes the agency is making a de facto designation of that portion of the unit as an NGPA proration unit, inasmuch as the State is designating a portion of a reservoir that can be drained effectively and efficiently by a new well. Second, a jurisdictional agency may, prior to drilling a new well, designate an NGPA proration unit by redefining the boundaries of a previously existing State law proration unit, and by establishing the new unit explicitly or implicity on the basis of the effective and efficient drainage of the relevant portion of the reservoir by the new well. In both of these situations, the new well is the only well on the NGPA proration unit and can qualify as a new, onshore production well.

Accordingly, where a jurisdictional agency prior to the drilling of a new well designates a proration unit, either individually or through field rules, on the basis that the designation of the new unit is necessary for effective and efficient drainage, the Commission will recognize a new well drilled in the unit so designated as meeting the requirements of section 103 and will not require the explicit effective and efficient drainage finding under § 271.305 with respect to the new well. If the proration unit is redefined after the drilling of a new well, the state may qualify a new well if it makes an explicit finding. See discussion, *supra.*

The next issue raised in the petitions for rehearing centers on the reference in the special rule to an "existing well" in § 271.305. The question arises because section 103 of the NGPA states that an eligible well may not be within a proration unit which, among other things, applied to a well which produced natural gas in commercial quantities. Under § 271.305, a second well on an existing proration unit may qualify as a new, onshore production well only when the second well is determined to be necessary to drain a portion of a reservoir which cannot be effectively and efficiently drained by "any existing well" located on the proration unit. A problem may arise where State law does not terminate a previously existing proration unit after the last well on the unit is plugged and abandoned; in such circumstances, is the plugged and abandoned well an existing well within the proration unit?

The Oklahoma Producers contend that a well which is incapable of producing, especially one which has been plugged and abandoned, should not be considered an existing well and that in this situation, the new well should not be considered a second well on the unit. The Indicated Producers submit that any well plugged and abandoned prior to January 1, 1970, should not be considered an existing well. These producers assert that it is difficult to ascertain whether a well has been drilled, produced, plugged and abandoned in the distant past, and that the suggested cut-off date is reasonable, because it was used in a similar way by the Congress in defining marker wells in section 2(5) of the NGPA.

The Commission is persuaded by these comments. Accordingly, the Commission will amend § 271.305 to provide that where a well has been plugged and abandoned before January 1, 1970 and has not produced natural gas on or after that date, a rebuttable presumption is created, for the purposes of section 103, that the well has not produced and is not capable of producing natural gas in commercial quantities. Accordingly (unless the record contains information to the contrary) the Commission will accept that a well was plugged and abandoned prior to 1970 as sufficient to meet the requirements in section 103(c)(3)(C) as to the absence of previous production history for the existing well.

The Commission's filing requirements in § 274.204 also will be amended to take into account the use of the rebuttable presumption by the applicant. Of course, the applicant may not use the rebuttable presumption where the applicant has actual knowledge that another well located on the proration unit had produced (or after February 19, 1977, was capable of producing) natural gas in commercial quantities.

The issue that attracted most of the comments in the petitions for rehearing concerned the requirement in § 271.305(b)(2)(ii), that where a State agency establishes allowables or production levels for proration units, the agency must also set allowables for each well in the unit in order for gas from the new well which is the second well in the unit to qualify for the section 103 price. As the Commission stated in Order No. 43 (*mimeo.*, p. 9), it is concerned that where a jurisdictional agency finds that both an existing well and a new well are necessary to effectively and efficiently drain the gas

within the proration unit and a State has established allowables for the unit but has not established separate allowables for each well, there is an incentive to produce a disproportionate amount of gas from the new well because it commands the higher section 103 price. To prevent this, the Commission in § 271.305(b)(2)(ii) conditioned eligibility on the jurisdictional agency setting separate allowables for each well, based on the respective ability of the well to deliver gas.

Texas, the State of New Mexico and the New Mexico Producers have raised various procedural and substantive objections to the allowables rule. They submit that the rule represents an unlawful intrusion into the preserve of State regulation, is discriminatory in effect and is unduly burdensome to both producers and jurisdictional agencies. They also urge that interested and affected persons be afforded notice and an opportunity for comment on this regulation prior to its effective date.

In consideration of these comments, the Commission believes that the objective of the allowables rule—to assure that a disproportionate amount of the gas which can be produced from the unit is not priced at the section 103 price—can be better accomplished by other means, and has decided that further comment by interested and affected parties would be advantageous. Therefore, the Commission is deleting the allowables rule and will issue in connection with this order a notice of proposed rulemaking which will address the concerns previously addressed by § 271.305(b)(2)(ii) under circumstances in which the jurisdictional agency does not establish allowables on a well-by-well basis.

The Oklahoma Producers request that the Commission clarify when the jurisdictional agency must notify the Commission under § 271.305(c) (formerly § 271.305(d)) that the agency has made an effective and efficient drainage finding. The Commission advises that only where the finding relates to a well that later becomes the subject of a section 103 determination and only when that determination is forwarded by the agency to the Commission must the agency so notify the Commission.

The New Mexico Producers request that the filing requirements contained in § 274.204 concerning new, onshore production wells be clarified to apply also to infill wells approved on a poolwide basis. This issue is currently before the Commission in a proceeding involving the alternative filing plan of the State of New Mexico, and will be resolved in that proceeding. See Docket No. RM79-3.

Because the amendments to Subpart C of Part 271 and Subpart B of Part 274 issued herein relieve restrictions previously imposed by the final rule issued in Order No. 43, and the interim regulations regarding filing requirements, the Commission is issuing these amendments effective immediately with regard to jurisdictional agency determinations which have not yet become final under § 275.202 as of the day before the date of issuance of this order. 5 U.S.C. 553(d)(1).

Therefore, in considering all future and pending applications, the jurisdictional agencies may make the effective and efficient drainage finding before or after drilling. Of course, the Commission would uphold a jurisdictional agency determination based on a finding made prior to drilling, in compliance with the prior rule of § 271.305 that a well qualifies as a new, onshore production well, so long as the determination is otherwise in compliance with applicable Commission regulations.

If a jurisdictional agency found prior to the effective date of these amendments that a well qualifies as a new, onshore production well based on an effective and efficient drainage finding made after drilling, the producer may take advantage of the change in § 271.305; that jurisdictional agency determination, if it is otherwise in compliance with applicable Commission regulations, will also be upheld. The Commission knows of no case pending before us for review in which a jurisdictional agency, in compliance with the prior rule of § 271.305, has found that the well is ineligible to qualify under section 103 because no effective and efficient drainage finding had been made prior to drilling. If such a case should arise, however, the Commission would reverse the agency determination where evidence in the record supports a finding made either before or after drilling that the well is necessary to effectively and efficiently drain the reservoir. In the absence of such evidence, the Commission would permit the jurisdictional agency to supplement the record by providing additional evidence, adduced after drilling, that the well is necessary to effectively and efficiently drain the reservoir.

In the case of an adverse section 103 determination which has become final under § 275.202, the applicant may seek an adjustment under section 502(c) of the NGPA, if the applicant believes that the change regarding the timing of the effective and efficient drainage finding has caused a special hardship, inequity or unfair distribution of burdens. The Commission will consider such adjustments on a case-by-case basis, consistent with the provisions of § 1.41 of the Commission's regulations.

Similarly, in the case of future applications and all applications pending before the jurisdictional agency or the Commission, an applicant may take advantage of all other amendments to the Commission's regulations set forth in this order (including deletion of the allowables rule), and the change in the Commission's interpretation of its regulations with regard to the redefinition of the bundaries of proration units. To the extent necessary, the Commission would handle such cases in a manner similar to the manner in which it intends to handle the amendment regarding the effective and efficient drainage finding. In addition, if an adverse section 103 determination has become final under § 275.202, an applicant who believes that he has suffered a special hardship, inequity or unfair distribution of burdens because of that determination, may seek an adjustment under section 502(c) of the NGPA and § 1.41 of the Commission's regulations.

The Commission Orders: (A) To the extent not granted above, the applications for rehearing of Order No. 43 are denied;

(B) Order No. 43 is clarified, as set forth above; and

(C) Sections 274.204 of the Commission's interim regulations and §§ 271.304 and 271.305 of the final regulations are amended and made effective as set forth above.

(Natural Gas Act, as amended, 15 U.S.C. § 717 *et seq.*; Department of Energy Organization Act, 42 U.S.C. § 7107, *et seq.*; Exec. Order No. 12009, 42 Fed. Reg. 46267; Natural Gas Policy Act of 1978, 15 U.S.C. § 3301, *et seq.*)

In consideration of the foregoing, Subpart C of Part 271 and Subpart B of Part 274, Subchapter H, Chapter I, Title 18, Code of Federal Regulations are amended as set forth below, effective immediately with regard to jurisdictional agency determinations which have not yet become final under § 275.202 as of the day before date of issuance of this order.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 271.304 is amended to read as follows:

§ 271.304 Waivers of well-spacing requirements.

If a jurisdictional agency alters or grants a waiver of any applicable well-

spacing requirements, the new well for which a determination is sought shall be deemed to satisfy any applicable Federal or State well-spacing requirements as required by section 103(c)(2) of the NGPA.

2. Section 271.305 is amended to read as follows:

§ 271.305 Special rule applicable to existing proration units.

(a) *Applicability.* (1) This section applies only to a jurisdictional agency determination with respect to a new well which is within a State law proration unit:

(i) Which was in existence at the time the surface drilling of such well began;

(ii) Which was applicable to the reservoir from which natural gas from such well is produced; and

(iii) Which applied to a well:

(A) Which produced natural gas in commercial quantities; or

(B) The surface drilling of which was begun before February 19, 1977, and which was thereafter capable of producing natural gas in commercial quantities.

(2) For purposes of this paragraph, State law proration unit means a proration unit, drilling unit or similar unit expressly designated in accordance with State law or Federal law (other than the NGPA).

(b) *Wells spudded on or after February 19, 1977.*

(1) In order for natural gas from a well to which this section applies to qualify for the maximum lawful price under this subpart, the jurisdictional agency must explicitly find that the well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit. This explicit finding must be based on appropriate geological and engineering data and such data must be included in the notice of determination submitted to the Commission.

(2) [Reserved]

(c) *Notice of finding.* If the jurisdictional agency makes a finding under paragraph (b)(1) of this section, it shall notify the Commission of such a determination in accordance with § 274.104.

(d) *Rebuttable presumption for certain wells drilled on existing proration units.* For the purposes of section 103(c)(3)(C) of the NGPA and paragraph (a)(1)(iii) of this section, if a well has been plugged and abandoned prior to January 1, 1970 and has not produced natural gas on or after that date, a rebuttable presumption is created that the well has not produced and is not capable of producing natural gas in commercial quantities.

§ 274.204 [Amended]

3. Section 274.204 is amended in paragraph (d)(3) by deleting the phrase "except as provided in paragraph (f) of this section" and substituting in lieu thereof the phrase "except as provided in paragraphs (f) and (g) of this section".

4. Section 274.204 is further amended by adding a new paragraph (g) to read as follows:

* * * * *

(g) For the purposes of paragraph (d)(3)(iii) of this section, the applicant may rely on the rebuttable presumption created in § 271.305(d) unless the applicant knew that a well in the proration unit, which was plugged and abandoned prior to January 1, 1970 and has not produced natural gas on or after that date, produced natural gas in commercial quantities or, after February 19, 1977, was capable of producing natural gas in commercial quantities.

[FR Doc. 79-36067 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 431, 514

[Docket No. 79N-0337]

Fee Requirement for Processing of Medicated Feed Applications

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the regulations by deleting the fee requirement for the processing of medicated feed applications for medicated animal feeds containing antibiotics subject to section 512(n) of the act. This action is based on requests to abolish the fee.

EFFECTIVE DATE: December 24, 1979.

FOR FURTHER INFORMATION CONTACT: George Graber, Bureau of Veterinary Medicine (HFV-220), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4438.

SUPPLEMENTARY INFORMATION: Section 514.60(b) (21 CFR 514.60(b)) requires the submission of a $10 fee with each medicated feed application (FD Form 1800) for a medicated animal feed which contains one or more antibiotics subject to the certification provisions of section 512(n) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 560b(n)). The fee was sanctioned by section 512(n) of the act which authorizes the promulgation of regulations "to carry out the purposes of this section, including provisions prescribing * * * (D) such fees specified in such regulations as are necessary to provide, equip and maintain an adequate certification service." Originally, applications for these antibiotics in animal feeds were filed as Form 10's and were reviewed by the Certification Services Branch of the agency.

In 1975, the agency received a request to abolish the fee requirement of § 514.60(b). The request stated that there were no services rendered for the fee, and that it was an unwarranted economic hardship. The agency reviewed its authority to impose a fee for reviewing medicated feed applications containing antibiotics subject to 512(n) of the act, and concluded that the applicable case law did not preclude the charging of this fee.

In June 1978, the agency formed a Medicated Feed Task Force to examine the existing medicated feed program and to explore and recommend ways to employ resources more efficiently in this program. The Task Force issued its report and recommendations in December 1978 (Second Generation of Medicated Feeds). Subsequently, the Chairman of the Task Force recommended that the agency additionally delete the fee requirement in § 514.60(b) for medicated feeds.

Consequently, the agency again reviewed the fee requirement for medicated feed applications for medicated animal feeds containing an antibiotic subject to section 512(n) of the act and reconsidered the earlier request to abolish the fee. The agency concludes that because these applications are now processed identically to other medicated feed applications (i.e., medicated feed applications for medicated feeds containing drugs not subject to section 512(n) of the act) which do not require submission of a fee, and because no services are currently being rendered under section 512(n) of the act, the $10 fee for processing these applications is not warranted. Therefore, the agency finds that § 514.60(b) should be amended to delete the $10 fee. Additionally, the agency is amending § 431.53(g) (21 CFR 431.53(g)) to delete reference to this fee.

The agency has determined that this document does not contain an agency action covered by § 25.1(b) and that consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n), 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 357–360b(n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Parts 431 and 514 are amended as follows:

§ 431.53 [Amended]

1. In Part 431, § 431.53 *Fees* is amended in (g) by deleting the phrase "and § 510.515".

2. In Part 514, § 514.60 is revised to read:

§ 514.60 Fees for certification of animal drugs subject to section 512(n) of the act.

The fees for certification services for veterinary drugs are described in the applicable provisions of § 431.53 of this chapter.

Under the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)), the Commissioner finds that notice, public procedure, and delayed effective date are unnecessary because the action taken herein relieves a restriction by lessening the requirements of an existing regulation.

Effective date. This regulation is effective December 24, 1979.

(Secs. 507, 512(n), 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 357–360b(n)).)

Dated: November 16, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-35983 Filed 11-21-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 510

Western Research Labs, Inc.; Addition to List of Sponsors of Approved New Animal Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the regulations concerning the list of approved sponsors to reflect that Western Research Labs, Inc., is the sponsor of an approved new animal drug application (NADA).

EFFECTIVE DATE: September 2, 1977.

FOR FURTHER INFORMATION CONTACT: Robert S. Brigham, Bureau of Veterinary Medicine (HFV–238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6243.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 2, 1977 (42 FR 44226), the regulations were amended in 21 CFR 520.1720a to reflect approval of NADA 102–824V, sponsored by Western Research Labs, Inc., 301 S. Cherokee St., Denver, CO 80223. Inadvertently, 21 CFR 510.600(c) was not amended to include the sponsor name, address, and drug labeler code. The regulations are amended to include this information.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director, Bureau of Veterinary Medicine (21 CFR 5.83), § 510.600 is amended to add a sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) Alphabetical Listing of Sponsors

Firm Name, Address, and Drug Labeler Code

* * * * *

Western Research Labs, Inc., 301 S. Cherokee St., Denver, CO 80223—000832.

* * * * *

Drug Labeler Code and Firm Name and Address

* * * * *

000832—Western Research Labs, Inc., 301 S. Cherokee St., Denver, CO 80223.

* * * * *

Effective date. September 2, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: November 16, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-35982 Filed 11-21-79; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Parts 510, 520, 522, 526, and 558

Animal Drugs, Feeds, and Related Products—Norwich-Eaton Pharmaceuticals; Change of Sponsor Name

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The regulations are amended to reflect the change of sponsor name for several nitrofuran-containing products and a buquinolate premix from Eaton Labs. and Norwich Pharmacal Co. to Norwich-Eaton Pharmaceuticals. Supplemental new animal drug applications (NADA's) filed by Norwich-Eaton Pharmaceuticals provide for this change.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: Eaton Labs. and Norwich Pharmacal Co. have been combined into Norwich-Eaton Pharmaceuticals. Norwich-Eaton Pharmaceuticals filed supplemental NADA's on certain nitrofuran-containing dosage form products and a buquinolate premix to provide for the change of sponsor name. The regulations are amended to reflect the change.

This intracorporate transfer of NADA's does not involve changes in facilities, equipment, procedures, or production personnel. Under the Bureau of Veterinary Medicine's proposed supplemental approval policy (see the **Federal Register** of December 23, 1977 (42 FR 64367)), this is a Category I change; therefore, this action does not require a reevaluation of the safety and effectiveness data in the parent applications.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), the Regulations are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended in paragraph (c)(1) by deleting the entries for "Eaton Laboratories" and "Norwich Pharmacal Co." and by alphabetically adding a new sponsor entry; and in paragraph (c)(2) by deleting the entries for "000035" and "000947" and by numerically adding a new sponsor entry, to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm Name, Address and Drug Labeler Code

* * * * *

Norwich-Eaton Pharmaceuticals, Division of Morton-Norwich Products, Inc., P.O. Box 191, Norwich, NY 13815—000149

* * * * *

(2) * * *

Firm Name, Address and Drug Labeler Code

* * * * *

Norwich-Eaton Pharmaceuticals, Division of Morton-Norwich Products, Inc., P.O. Box 191, Norwich, NY 13815—000149

* * * * *

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

2. In Part 520:

§ 520.1560a [Amended]

a. Section 520.1560a *Nitrofurantoin oral suspension* is amended in paragraph (b) by deleting sponsor number "000035" and inserting in its place "000149."

§ 520.1560b [Amended]

b. Section 520.1560b *Nitrofurantoin tablets and boluses* is amended in paragraph (b) by deleting sponsor number "000947" and inserting in its place "000149."

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.1563 [Amended]

3. In Part 522, § 522.1563 *Nitrofurantoin sodium injection* is amended in paragraph (b) by deleting sponsor number "000947" and inserting in its place "000149."

PART 526—INTRAMAMMARY DOSAGE FORMS NOT SUBJECT TO CERTIFICATION

4. In Part 526, § 526.1014 is amended by adding paragraph (b), to read as follows:

§ 526.1014 Furaltadone.

* * * * *

(b) *Sponsor.* See 000149 in § 510.600(c) of this chapter.

* * * * *

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

5. In Part 558:

§ 558.15 [Amended]

a. Section 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals* is amended in the tables of paragraph (g) (1) and (2) by changing each entry for Norwich Pharmacal to Norwich-Eaton Pharmaceuticals and changing each entry for Hess & Clark and Norwich Pharmacal Co. to Hess & Clark and Norwich-Eaton Pharmaceuticals.

§ 558.105 [Amended]

b. Section 558.105 *Buquinolate* is amended in paragraph (b) by deleting sponsor number "000947" and inserting in its place "000149."

Effective date. This regulation is effective November 23, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: November 16, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-35981 Filed 11-21-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) has determined that USNS NARRAGANSETT (T-ATF 167) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with Annex I, section 2(f) of the 72 COLREGS without interfering with its special function as a naval tug, and (2) has found that USNS NARRAGANSETT (T-ATF 167) is a member of the T-ATF 166 class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rules 38(a), 38(b) and 38(d)(1). The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: November 7, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Charles Stanley Prentace, JAGC, USN, Admiralty Division, Office of the Judge Advocate General, Navy Department, Washington, D.C. 20370, Telephone number (202) 694-5188.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. § 1605 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USNS NARRAGANSETT (T-ATF 167) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS Annex I, section 2(f) in that, during those situations when the USNS NARRAGANSETT must simultaneously display masthead lights used for towing as required by Rule 24 and the task lights of a vessel restricted in its ability to maneuver as required by Rule 27, the masthead lights used for towing will not be located above and clear of the task lights. Full compliance with this provision would interfere with the special function of the ship. The Secretary of the Navy has also certified that the lights previously mentioned are located in closest possible compliance with the applicable 72 COLREGS' requirement.

Notice is also provided to the effect that the Secretary of the Navy has previously authorized the use by T-ATF 166 class of certain exemptions permitted by 72 COLREGS Rule 38. Specifically, the use of the exemptions has been authorized as allowed in Rule 38(a), pertaining to lights with ranges and intensities prescribed in Rule 22, Rule 38(b), pertaining to lights with color specifications prescribed in Annex I, section 7, and Rule 38(d)(i), pertaining to the repositioning of masthead lights on vessels less than 150 meters in length required by Annex I, section 3(a).

The Secretary of the Navy has determined that USNS NARRAGANSETT is a member of the T-ATF 166 class, is in compliance with the 1960 Rules of the Road, and the keel of the T-ATF 166 class lead ship was laid prior to July 15, 1977.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to the public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function. Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table Four of § 706.2 is amended by adding the following new note 11 which reflects the certification issued by the Secretary of the Navy:

11. On USNS NARRAGANSETT T-ATF 167, the masthead lights used for towing required by Rule 24 will be displayed approximately 4.95 meters below the lowest of the lights required to be displayed by Rule 27 when a vessel is not under command or is restricted in its ability to maneuver.

* * * * *

[EO 11964 and 33 U.S.C. 1605]

Dated: November 7, 1979.

Edward Hidalgo,

Secretary of the Navy.

[FR Doc. 79-35977 Filed 11-21-79; 8:45 am]

BILLING CODE 3810-71-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[FRL 1364-1; PP 7E2010/R223]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Chlorpyrifos

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide chlorpyrifos on broccoli, Brussels sprouts, cabbage, and cauliflower at 2 parts per million (ppm). The proposal was submitted by the Interregional Research Project No. 4. This rule establishes maximum permissible levels for residues of the insecticide chlorpyrifos on broccoli, Brussels sprouts, cabbage, and cauliflower.

EFFECTIVE DATE: Effective on November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/426-0223).

SUPPLEMENTARY INFORMATION: On September 13, 1979, the EPA published a notice of proposed rulemaking in the **Federal Register** (44 FR 53183) in response to a pesticide petition (PP 7E2010) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Colorado, Hawaii, Idaho, Michigan, New York, Oregon, Utah, Washington, and Wisconsin. This petition proposed that 40 CFR 180.342 be amended by the establishment of tolerances for combined residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-1-pyridinol in or on the raw agricultural commodities broccoli, Brussels sprouts, cabbage, and cauliflower at 2 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.342 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before December 24, 1979, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on November 23, 1979, Part 180, Subpart C, section 180.342 is amended by alphabetically inserting tolerances on broccoli, Brussels sprouts, cabbage, and cauliflower at 2 ppm in the table as set forth below.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

Dated: November 15, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.342 is amended by alphabetically inserting tolerances on Brussels sprouts, broccoli, cabbage, and cauliflower at 2 ppm in the table to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodity:	*Parts per million*
* * * * *	
Broccoli	2
Brussels sprouts	2
Cabbage	2
* * * * *	
Cauliflower	2
* * * * *	

[FR Doc. 79-36047 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[FRL 1364-2; PP 8E2076/R224]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Atrazine

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide atrazine on proso millet grain at 0.25 part per million (ppm) and proso millet fodder, forage, and straw at 5 ppm. The proposal was submitted by the Interregional Research Project No. 4. This rule establishes maximum permissible levels for residues of the herbicide atrazine on proso millet grain and proso millet fodder, forage, and straw.

EFFECTIVE DATE: Effective on November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, DC (202/426-0223).

SUPPLEMENTARY INFORMATION: On September 20, 1979, the EPA published a notice of proposed rulemaking in the **Federal Register** (44 FR 54510) in response to a pesticide petition (PP 8E2076) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Colorado, Michigan, Minnesota, and Nebraska. This petition proposed that 40 CFR 180.220 be amended by the establishment of tolerances for combined residues of the herbicide atrazine (2-chloro-4-ethylamino-6-isopropylamino-*s*-triazine) and its metabolites 2-amino-4-chloro-6-ethylamino-*s*-triazine, 2-amino-4-chloro-6-isopropylamino-*s*-triazine, and 2-chloro-4,6-diamino-*s*-triazine in or on the raw agricultural commodities proso millet grain at 0.25 ppm and proso millet fodder, forage, and straw at 5 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.220 should be adopted without

change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before December 24, 1979, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on November 23, 1979, Part 180, Subpart C, § 180.220 is amended by alphabetically adding proso millet grain at 0.25 ppm and proso millet fodder, forage, and straw at 5 ppm to the table as set forth below.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 34a(e)))

Dated: November 15, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.220 is amended by alphabetically adding proso millet grain at 0.25 ppm and proso millet fodder, forage, and straw at 5 ppm to the table to read as follows:

§ 180.220 Atrazine; tolerances for residues.

* * * * *

(b) * * *

Commodity:	Parts per million
* * * * *	
Proso millet, fodder	5
Proso millet, forage	5
Proso millet, grain	0.25
Proso millet, straw	5
* * * * *	

[FR Doc. 79-36048 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[FRL 1365-1; PP 5F1615 & 7F1948/R218]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Methomyl

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for combined residues of the insecticide methomyl on a variety of raw agricultural commodities at various tolerance levels. The regulation was requested by E. I. du Pont de Nemours & Co., Inc. This rule establishes maximum permissible levels for residues of methomyl in or on a variety of raw agricultural commodities.

EFFECTIVE DATE: Effective on November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Sanders, Product Manager (PM) 12, Room E-335, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/426-2635).

SUPPLEMENTARY INFORMATION: On May 8, 1975 and August 2, 1977, notices were given (40 FR 20129 and 42 FR 39132, respectively) that E. I. du Pont de Nemours & Co., Wilmington, DE 19898, had filed pesticide petitions (PP 5F1615 and 7F1948) with the EPA. These petitions proposed that 40 CFR 180.253 be amended to establish tolerances for combined residues of the insecticide methomyl [*S*-methyl *N*-[(methylcarbamoyl)oxy] thioacetimidate) in or on the raw agricultural commodities wheat grain, oat grain, barley grain, and rye grain at 1 part per million (ppm); wheat forage, hay, and straw; oat forage, hay, and straw; barley forage, hay, and straw; rye forage, hay, and straw at 10 ppm (PP 5F1615); and strawberries at 2 ppm (PP 7F1948). No comments were received in response to these notices of filing.

The data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a two-year rat and a two-year dog feeding study with a no-observed-effect level (NOEL) of 100 ppm each (5.0 milligrams (mg)/kilogram (kg) of body weight (bw)/day and 2.5 mg/kg bw/day, respectively); a three-generation rat reproduction study with an NOEL of 100 ppm (5.0 mg/kg bw/day); a hen delayed neurotoxicity study (with atropine), which was negative at 200 mg/kg bw; a hen delayed neurotoxicity study (without atropine), which was negative at 28 mg/kg bw; and a rat teratogenic study which was negative at 400 ppm (highest level tested).

Based on the two-year dog feeding study with a 2.5 mg/kg bw/day NOEL and using a safety factor of 100, the acceptable daily intake (ADI) for man is 0.025 mg/kg bw/day. The theoretical maximum residue contribution (TMRC) in the human diet from the previously established tolerances and the proposed tolerances does not exceed the ADI.

Desirable data that are lacking from the petitions are a (second) mouse oncogenicity study and a lactating goat metabolism study. In letters of April 11, 1978, and April 20, 1979, the petitioner indicated that these studies are underway and is expected to be completed in late 1980. A mutagenicity study has been submitted to the Agency for evaluation. The validity of the submitted study will be determined upon completion of the evaluation and the development of suitable test protocols for mutagenicity studies. The petitioner also agreed to voluntarily delete the use of methomyl on strawberries from the label should the results of the second oncogenicity exceed the risk criteria for chronic toxicity in 40 CFR 162.11.

The metabolism of methomyl in rats and plants is adequately understood, and an adequate analytical method (gas chromatography using a microcoulometric detector) is available for enforcement purposes. Based on feeding studies, there is no reasonable expectation of parent methomyl residues in eggs, meat, milk, or poultry. However, if metabolites of methomyl are found in these lactating goat metabolism study, the transfer potential of these metabolites will have to be determined. No actions are currently pending against continued registration of methomyl, nor are there any other relevant considerations involved in establishing the proposed tolerances.

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances established by amending 40 CFR 180.253 will protect the public health. It is therefore recommended that tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before December 24, 1979, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW., Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the

objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on November 23, 1979, Part 180 is amended as set forth below.

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

Dated: November 9, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.253 is amended by alphabetically inserting barley forage, barley hay, barley straw, oat forage, oat hay, oat straw, rye forage, rye hay, rye straw, wheat forage, wheat hay, and wheat straw at 10 ppm; strawberries at 2 ppm; and barley grain, oat grain, rye grain, and wheat grain at 1 ppm in the table to read as follows:

§ 180.253 Methomyl; tolerances for residues.

* * * * *

Commodity:	Parts per million
* * * * *	
Barley, forage	10
Barley, grain	1
Barley, hay	10
Barley, straw	10
* * * * *	
Oats, forage	10
Oats, grain	1
Oats, hay	10
Oats, straw	10
* * * * *	
Rye, forage	10
Rye, grain	1
Rye, hay	10
Rye, straw	10
* * * * *	
Strawberries	2
* * * * *	
Wheat, forage	10
Wheat, grain	1
Wheat, hay	10
Wheat, straw	10

[FR Doc. 79-36054 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[FRL 1364-3; PP 6E1847/R225]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Carbaryl

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide carbaryl on lentils at 10 parts per million (ppm). The proposal was submitted by the Interregional Research Project No. 4. This rule establishes a maximum permissible level for residues of the insecticide carbaryl on lentils.

EFFECTIVE DATE: Effective on November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/426-0223).

SUPPLEMENTARY INFORMATION: On September 20, 1979, the EPA published a notice of proposed rulemaking in the **Federal Register** (44 FR 54510) in response to a pesticide petition (PP 6E1847) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Idaho and Washington. This petition proposed that 40 CFR 180.169 be amended by the establishment of a tolerance for combined residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) including its hydrolysis product 1-naththol, calculated as carbaryl, in or on the raw agricultural commodity lentils at 10 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.169 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before December 24, 1979, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on November 23, 1979 Part 180, Subpart C, § 180.169 is amended by alphabetically inserting lentils at 10 ppm in the table as set forth below.

(Sec. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

Dated: November 15, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.169 is amended by alphabetically inserting lentils at 10 ppm in the table to read as follows:

§ 180.169 Carbaryl; tolerances for residues.

* * * * *

Commodity:	Parts per million
* * * * *	
Lentils	10
* * * * *	

[FR Doc. 79-36045 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[Docket No. 21348]

Private Land Mobile Radio Service; Providing a New Part 90 That Re-regulates and Consolidates Parts 89, 91, and 93; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: In an effort to set forth a simple and more manageable set of rules for use by applicants, licensees, and industry users, the Federal Communications Commission published regulations at 43 FR 54788, November 22, 1978, providing for the consolidation and updating of the private land mobile radio services provisions. This document makes necessary corrections

because of omissions and inaccuracies which occurred in preparation and printing.

EFFECTIVE DATE: January 2, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur C. King, Rules Division, Private Radio Bureau, (202) 632-6497.

Fourth Errata

Released: November 14, 1979.

In the matter of amendment of the Commission's rules governing the private land mobile radio service to provide a new Part 90 that re-regulates and consolidates Parts 89, 91, and 93, Docket 21348.

The appendix to the Report and Order in this proceeding (FCC 78-799, 43 FR 54788) contained a new Part 90 which consolidated the rules and regulations formerly contained in Parts 89, 91, and 93. In the process of consolidating, a number of omissions and inaccuracies occured which are the subject of this errata.

§ 90.51 [Corrected]

1. In § 90.51, *Emergency repair of public communications facilities,* correct the first sentence to read:

(a) *Eligibility.* Communications common carriers are eligible in this service for radio facilities to be used in effecting expeditious repairs to interruption of public communications facilities where such interruptions have resulted in disabling intercity circuits or service to a multiplicity of subscribers in a general area.

* * * * *

§ 90.53 [Corrected]

2. In § 90.53, *Frequencies available,* correct the Special Emergency Frequency Table as follows:

* * * * *

150.790	do	7
152.075	Base	4

* * * * *

§ 90.63 [Corrected]

3. In § 90.63(d), correct subparagraph (5) to read:

* * * * *

(d) * * *

(5) This frequency is not available for assignment in this service in the States of Arkansas, Louisiana, Oklahoma, and Texas. In these States, this frequency is available to the petroleum and Forest Products Radio Services.

§ 90.73 [Corrected]

4. In § 90.73(c) correct the Special Industrial Radio Service Frequency Table to read:

* * * * *

(c) * * *

* * * * *

157.740	do	2, 9

* * * * *

952 and above	Operational fixed	22

* * * * *

§ 90.93 [Corrected]

5. In § 90.93(d), correct subparagraph (3) to read:

* * * * *

(d) * * *

(3) The frequency band 33.00-33.01 MHz may be used for developmental operation subject to the provisions of Subpart Q. * * *

§ 90.119 [Corrected]

6. In §90.119, correct paragraph (c) to read:

* * * * *

(c) Form 425 shall be used in lieu of Form 400 and 405(a) to submit applications specifying any frequency in the band 470-512 MHz. (See also Subpart P.)

§ 90.175 [Corrected]

7. In § 90.175, in the Errata dated May 29, 1979, two paragraphs were incorrectly identified as (d)(4) and (d)(10). The correct identification is (e)(4) and (e)(10).

§ 90.242 [Corrected]

8. In § 90.242(a) correct subparagraphs (1) and (5) to read:

(a) * * *

(1) For Travelers' Information Station applications only, eligibility requirements as set forth in § 90.17(a) are extended to include park districts and authorities.

* * * * *

(5) The transmitting site of each Travelers' Information Station shall be restricted to the immediate vicinity of the following specified areas: air, train, and bus transportation terminals, public parks and historical sites, bridges, tunnels, and any intersection of a Federal Interstate Highway with any other Interstate, Federal, State, or local highway.

§ 90.261 [Corrected]

9. In § 90.261(c), correct the frequency table as follows: Following the frequency 465.175, delete 475.200 and insert in its place 475.200.

§ 90.311 [Corrected]

10. In § 90.311, identify the opening paragraph as (a) as follows:

* * * * *

(a) Except as provided for in § 90.315, the following * * *

§ 90.429 [Corrected]

11. In § 90.429(d), correct the first sentence of subparagraph (1) as follows:

* * * * *

(d) * * *

(1) A carrier-operated device which will provide continuous visual indication when the transmitter is radiating, or, a pilot lamp or meter which will provide continuous visual indication when the transmitter circuits have been placed in a condition to produce radiation.

§ 90.461 [Corrected]

12. In § 90.461(c), correct subparagraph (3) as follows:

(c) * * *

(3) Equipment used to provide the transmitter/dial-up circuit interface

* * *

§ 90.463 [Corrected]

13. In § 90.463(a), correct the first sentence to read:

* * * * *

(a) A control operator is required to be stationed at the operating position of a transmitter control point. * * *

§ 90.527 [Corrected]

14. In § 90.527, identify the first subparagraph as (1) as follows:

* * * * *

(c) *Emergency Operation.* (1) A National Defense Emergency Authorization will be issued * * *.

§ 90.555 [Corrected]

15. In § 90.555(b), correct the combined frequency list as follows:

* * * * *

(b) * * *

* * * * *

30.58	IS	
30.60	IS	
30.62	IS	

* * * * *

39.30	PP	
39.32	PP	
39.34	PP	

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-36028 Filed 11-21-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[Docket No. 20846; FCC 79-720]

Prescribing Policies and Regulations To Govern Interconnection of Private Land Mobile Radio Systems With the Public Switched Telephone Network

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order; Final rule.

SUMMARY: This Memorandum Opinion and Order amends the FCC's rules prescribing policies and regulations to govern interconnection of private land mobile radio systems with the public switched telephone network. It denies, in large part, certain petitions for reconsideration of action taken by the Commission in the First Report and Order. Largely interpretive in nature, this decision responds to various questions relating to the intent of the rules adopted in the First Report and Order.

EFFECTIVE DATE: December 19, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Federal Communications Commission, Private Radio Bureau, Rules Division, James E. McNally, Jr. at (202) 254-6884.

Memorandum Opinion and Order

Adopted: November 6, 1979.

Released: November 16, 1979.

By the Commission: Commissioner Jones not participating.

In the Matter of Amendment of Part 90 (Formerly, Parts 89, 91 and 93) of the Commission's rules to prescribe policies and regulations to Govern Interconnection of Private Land Mobile Radio Systems with the Public Switched Telephone Network, Docket No. 20846.

Background

1. This proceeding was initiated primarily to develop and prescribe specific rules to define and regulate the interconnection of private land mobile radio systems (i.e., those authorized in the Public Safety, Special Emergency, Industrial, Land Transportation and General Mobile Radio Services) with the public switched telephone network (PSTN).[1] Secondarily, this proceeding was intended to be the forum through which the transmitter control requirements (in the same radio services) were to be updated to be more in keeping with the control capabilities afforded by modern communications technology.

2. In the First Report and Order [2] in Docket 20846, we adopted basic rules to govern interconnected service and made a number of revisions in the transmitter control requirements. However, we determined that we should inquire further before adopting rules relating to the interconnection of mobile radio systems operating in the 800 MHz bands (i.e., those allocated to the private land mobile radio services in the proceedings in Docket 18262). For this purpose we issued a Further Notice of Proposed Rule Making.[3] Therefore, with one exception,[4] the new rules developed in the First Report and Order pertain solely to systems licensed in the mobile bands below 512 MHz. Further, we decided to postpone the adoption of new rules to govern interconnection at common locations of certain shared systems provided by third parties.

The Petitions for Reconsideration

3. Petitions for reconsideration have been filed by a number of parties. Oppositions and replies have also been filed.[5] Very broadly, some petitioners have questioned whether the new rules governing interconnection had inadvertently been extended to private operational fixed systems; and whether the restrictions and limitations adopted went too far, or not far enough; whether we had confused "internal" systems with "end-to-end" or operational fixed facilities; and whether or not some of our actions (particularly those directed to paging operations) were not, in fact, beyond the scope of our Notice, and were arbitrary and capricious.

4. By the Memorandum Opinion and Order adopted May 2, 1979, we acted on the petition for reconsideration filed by Larry Bird relating to the General Mobile Radio Service.[6] Thus, we deal here only with the rules governing interconnection of private land mobile systems licensed under Part 90 (the Public Safety, Special Emergency, Industrial and Land Transportation Radio Services).

Applicability of the Interconnection Rules to Operational Fixed Facilities Licensed Under Parts 90 and 94

5. API and UTC raised questions as to the applicability of the new interconnection rules to operational fixed (point-to-point) radio facilities authorized either under Part 90 or 94 of the rules. It is pointed out that many of these systems (as they are presently designed and operated) are accessed directly from the PSTN, or serve as communications links between points within private fixed and mobile systems and persons served by the PSTN.

6. It is argued that the situation is complicated by the fact that parts of these systems operate on microwave channels licensed under Part 94 of the Rules; some on operational fixed frequencies allocated for use under Part 90 of the Rules; and some are composites formed by combinations of such facilities. Also, these systems are at times tied in with mobile systems (including two-way and paging operations) and with what we have classified as "internal" systems under our new rules. In these circumstances, clarification or reconsideration of our policies and rules governing operation of these types of systems is requested.

7. We must agree with those petitioners who expressed the belief that this proceeding was directed primarily to interconnection of private land mobile radio systems, not to microwave systems regulated under Part 94. Section 94.13 governs the interconnection of point-to-point systems authorized under Part 94; and it simply states that:

> Stations authorized under this Part may be interconnected with facilities of common carriers, subject to applicable tariffs.[7]

The new interconnection rules were intended to apply to mobile systems, not to operational fixed facilities, regardless of the frequency being utilized. We said in the initial Notice that we were "initiating this inquiry and rule making to develop and prescribe specific rules to better define and regulate 'interconnection' of private *land mobile*

[1] See the Notice of Inquiry and Notice of Proposed Rule Making (FCC 76-603), Docket No. 20846, 41 FR 28540 (July 12, 1976).

[2] See the First Report and Order (FCC 78-622), Docket No. 20846, 43 FR 38396 (August 28, 1978).

[3] See the Further Notice of Proposed Rule Making (FCC 79-18), Docket No. 20846, 44 FR 7987 (February 8, 1979).

[4] Section 90.389 (formerly, 89.653) was rewritten for purposes of clarification.

[5] Petitions for reconsideration were filed by Larry Bird; Capitol Communication, Inc. (Capitol Communications); California mobile Radio Association (CMRA); Telocator Network of America (TNA); Utilities Telecommunications Council (UTC); American Petroleum Institute (API); National Association of Business and Educational Radio, Inc. (NABER); and the Fort Wayne Medical Society. Timely oppositions were filed by Corwin D. Moore, Jr. (Moore); American Petroleum Institute (API); and Telocator Network of America (TNA). Timely replies were filed by the American Petroleum Institute (API); Utilities Telecommunications Council (UTC); the Fort Wayne Medical Society, Inc. (FWMS); and Telocator Network of America (TNA).

[6] Memorandum Opinion and Order (FCC 79-273), Docket No. 20846, adopted May 2, 1979.

[7] This rule clearly permits the type of operation contemplated by API and UTC in the microwave bands; and we see no conflict with the rules that have been adopted in this proceeding. The systems described by API and UTC appear to be in compliance with Commission regulations.

systems." [8] We further stated that "we use the term (interconnection) to refer to arrangements in which radio facilities licensed in the private services are 'interconnected' with the facilities of wire line telephone companies to permit 'communication' between persons at telephone positions—which are part of the public switched telephone network—and persons with *mobile radio equipment* licensed or authorized in the referenced private services." [9] Thus, we think that a reading of the initial Notice (and similarly, of the Further Notice), clearly leads to the conclusion that our focus was on mobile interconnected systems. The interconnection of operational fixed stations is a different subject, involving different considerations and problems which are not necessarily or essentially related to mobile radiotelephone-type communication.

8. Thus, operational fixed facilities, whether licensed under Part 90 or 94, are governed by the rules and policies that applied prior to the adoption of the First Report and Order in this Docket. This means that in "end-to-end", point-to-point systems [10], where applicable transmitter control requirements are met, licensees may interconnect with the facilities of the telephone company subject, of course, to applicable tariffs and applicable Commission policies governing such systems, and need not follow the specific requirements and limitations contained in §§ 90.477, 90.481, and 90.483 of our rules. We think that this ruling meets the points raised on reconsideration; but to further clarify the matter and to relieve any confusion on this point which might arise in the future, we are amending the rules on interconnection to indicate that they refer to mobile radio systems only. Additionally, a new rule has been included (§ 90.476) which relates to the interconnection of operational fixed stations. This provision is identical to that given in Part 94 for microwave stations; and it merely states long-standing policy.

9. The other point raised concerning interconnection of fixed stations relates to the approach to be taken where fixed systems are combined with mobile systems. The answer is simply that when a fixed station is used as part of a mobile system, then the rules relating to interconnection of mobile systems apply. Put another way, when the fixed station serves to link a point in the PSTN (where such a point is not an authorized and fully equipped control point) and mobile units of the licensee, then the rules relating to the interconnection of mobile systems apply. Thus, where an operational fixed facility between Point "A" and Point "B" ties in with a two-way mobile communications system in Point "B" and the base station transmitter is accessed from a PSTN position at Point "A", the rules relating to interconnection of mobile systems will apply. This is because the mobile transmitter is being accessed from the PSTN. All permissible options for interconnection are, of course, available (see § 90.481), but the rule requirements must be satisfied (see § 90.483). It should be noted that the particular point of interconnection in the preceding example is optional. It would have been possible to configure the system so that interconnection took place at the base station, avoiding use of the operational fixed system altogether.

Requests To Extend or Relax Limitations and Restrictions on Interconnected Service

10. NABER, and certain others, ask that we modify our rules to relax the conditions under which interconnected service is to be permitted. In this regard, we are asked to amend § 90.477(c) to permit certain classes of Business Radio Service licensees (large single user systems, hospitals, doctors and certain educational systems, as examples) to interconnect in the restricted zones delineated in this rule section. Further, we are asked to clarify and the bases for our choice of the 25 urban areas and the five service categories (Automobile Emergency, Business, Special Emergency, Special Industrial and Taxicab Radio Services), in which interconnection is prohibited.

11. In contrast, TNA argues that we did not go far enough; that the restriction should apply to points 90 or 100 miles from the centers of the designated urban areas; and that the prohibition should extend to 30 or 35 urban areas, including ones that have increased in population in recent years and which now exceed (in terms of population) some of the urban centers designated in the rules.[11]

12. We believe we explained adequately in the Report and Order our reasons for imposing restrictions on interconnection in the five services. Our decision to preclude interconnection in and near the major centers in the Business Radio Service, was based, in part, on the strong recommendations of CMRA, EIA, and NABER, and our own conclusion that in that Service (which is characterized by high intensity of usage of the frequencies by diverse classes of users, and lacking the same degree of discipline which is characteristic of some other services) such a limitation was in order. We also stated, with the limited exception made in the case of the Special Emergency Radio Service, that the limitations in the Business Radio Service should also be extended to other high-intensity use services (which includes the remaining four services mentioned). We adhere to the original views; and we are not persuaded to relax the rules as requested.

13. As to the 25 urban areas selected, they were those which were ranked the largest in terms of population at the time of our decision, and those where the land mobile radio frequencies are used most intensively. In these urban centers, and in the areas adjacent to them, the radio frequencies in the five radio services involved are generally heavily used. Beyond 75 miles from the center of these areas, the frequencies are not in heavy demand and, therefore, interconnection of the relatively few, if any, systems there is not likely to impact adversely on the use of the frequencies in and near the large population concerns. Therefore, there is no need to extend the restriction to greater distances and to other urban centers, as urged by TNA. Accordingly, the requests of both NABER and TNA will be denied.

Clarification of Rules Governing Interconnection of 800 MHz Systems and Miscellaneous 800 MHz Matters

14. We mentioned that the basic policy issues relating to 800 MHz interconnection are to be explored in further rule making in this Docket.[12] However, we did clarify the governing rule provision, Section 90.389 (formerly, § 89.653) in the First Report and Order; and a number of points have been raised on reconsideration as a result of that particular action.

15. First, it is claimed that our action was no mere clarification, but rather an amendment of substance that went beyond the scope of the Notice. However, it is sufficiently clear that, even if the amendment were substantive, it was not beyond the scope of the Notice. The Notice was directed to all land mobile radio systems authorized in all of the frequency bands

[8] See the Notice, cited previously in Footnote 1, Paragraph 1. (Emphasis supplied.)

[9] Ibid. Footnote 2. (Emphasis supplied.)

[10] The parties use the term, "end-to-end" to refer to communications paths between two fixed points, not between one or more fixed points and a mobile station.

[11] TNA specifically mentions Tampa/St. Petersburg, Florida, and Phoenix, Arizona, among the urban centers it feels should have been included in the ban on interconnected service.

[12] See the Further Notice of Proposed Rule Making, referenced in Footnote 3.

allocated to the Public Safety, Industrial and Land Transportation Radio Services. In fact, specific comments were directed to certain inherent distinctions that were thought to exist between land mobile operations below 512 MHz and those above 800 MHz. It was only after consideration of those comments that we decided to separate our consideration of the rules and policies which would apply to the two basic band-groups. Accordingly, we see no merit in this contention.

16. Also, NABER alleges that even as a clarification, there is no clear or valid basis for requiring licensees of 800 MHz facilities to interconnect (if that mode of operation is desired) only at licensed control points.[13] It is also argued (by Capitol Communications) that greater flexibility is needed, and that as a minimum, clarification of the intent of the rule is needed in the situation where the base station and the station control point are at the same location or are in close proximity to each other (CMRA), such as when the transmitter is on the roof of a building and the licensee's control point is within that same building.

17. On these points, we feel that if greater flexibility is to be provided, it should be the result of a decision in the Further Rule Making in this proceeding. As to the scope of our action (as TNA points out), the clarification adopted is consistent with the history of the 800 MHz interconnection limitation. The rule, as it read prior to this Docket, was derived from the proceedings in Docket 18262, and it always required 800 MHz systems to be interconnected at a control point or a control station at some fixed location. The modification of the language of Section 90.389 was designed to eliminate ambiguities in the rule, itself.

18. On CMRA's question, we feel that the resolution depends merely on some common sense being applied to the rule's interpretation. For example, where a control point is in the same building as the base station, the intent of the rule would be satisfied if interconnection takes place at either location. If the base station is at some other building in the same general area, even if at the same address (such as might be the case in an industrial complex), the interconnection must take place at the control point (or control station).

19. CMRA also asks whether or not 800 MHz systems (authorized in the private services) are governed by the new transmitter control requirements;[14] and whether or not these systems may be operated under the options specified in § 90.461.[15] The answer to both of these questions is yes. While interconnection of 800 MHz systems is governed by § 90.389, the transmitter control requirements set out through §§ 90.461–90.469 govern all Part 90 systems, including those licensed in the 806–821 and 851–866 MHz bands.[16]

20. Finally, NABER inquires as to whether or not the grandfather provisions apply to 800 MHz systems (and if so, to what extent); and whether systems not meeting the requirements of § 89.653, as modified (new § 90.389), could continue in use until the date for mandatory compliance with the new rules. The answer is that the grandfather provisions do not apply to 800 MHz interconnection because nothing has been changed with respect to interconnection in these bands. Section 90.389 has merely been clarified. Accordingly, any lawful system may continue in existence at least until the completion of the further rule making pertaining to 800 MHz operation.

"Internal" and "Dial-up" Systems of Communication

21. API and UTC, expressed concern as to possible confusion between what we have now classified as "internal" systems of communication and their operational fixed (point-to-point) facilities. While we feel that there is a certain amount of overlap between these concerns and those voiced by the same parties as to interconnected systems dealt with previously, the rule provisions involved are different,[17] and we believe that separate treatment of this matter is warranted.

22. As mentioned earlier, of particular concern are §§ 90.475(a)(2) and 90.461(c)(2). As we understand it, the apprehension stems from a reading of the rules, together with the definition of "internal" systems given in § 90.7, and with certain language we employed in the First Report and Order, which would seem to prohibit the use of "dial-up" circuits in interconnected systems (see § 90.461 (a)(2) and (a)(5)), the use of "dial-up" control circuits in "internal" systems, and access of "internal" systems from telephone positions in the PSTN (see § 90.475(a)(2)).

22. This concern, of course, is real and very important to licensees in the Power and Petroleum Radio Services (and in others with similar operating requirements and methodologies). Many have operational fixed facilities, authorized under both Parts 90 and 94, which are accessed directly from telephone positions in the PSTN through dial-up circuits.

23. While, as TNA argues, reading the entire set of rules as a whole would indicate that the flexibility desired by the petitioners is now permitted, clarification and language modification is in order. It appears that in our effort to develop a solution to a particular set of operational problems, we have adopted rules which seem to confuse the benefits we sought to attain in one area with restrictions imposed on other, unrelated methods of operation.

24. In brief, in our First Report and Order we introduced considerable flexibility on how "internal" systems (such as private wireline/microwave/PBX facilities) may be interfaced with licensee's mobile systems. It was our intention simply to delete needless and burdensome control point requirements in these situations. To assure licensee control of the mobile system, however, we adopted a further provision which requires a design feature in such systems which would preclude access to the radio system from the PSTN. We can understand, however, how this specific provision, applied literally, could restrict or even preclude a number of common and valuable system configurations. As we said, correction is in order. However, it is emphasized that where an internal system together or along with other facilities, including "end-to-end" systems, and the PSTN, are to be interfaced with the mobile system, the higher applicable rule requirements would have to be met. For example, if a base station, which is controlled by an internal system is to be accessed from the PSTN, and automatic interconnection is to be accomplished, the base station and the mobile units would have to meet the requirements prescribed in § 90.483 for automatic interconnected service. The rules have been modified so as to remove the uncertainties and, therefore, the requests of the petitions have been granted to the extent indicated.

25. Also, § 90.461(c)(5) prohibits use of dial-up circuits for transmitter control in radio communication systems which are interconnected with the PSTN. Capitol Communications has requested that we delete § 90.461(c)(5) and thereby permit interconnection in systems equipped

[13] See § 90.389 (formerly, § 89.653) which provides, in part, that "such interconnection is accomplished at a control point or control station * * * at a fixed location * * * where a person directly responsible for the operation of the base station or stations is on duty."

[14] See §§ 90.403, 90.461–90.469.

[15] Section 90.461 pertains to direct and remote control of radio transmitters licensed in the private services.

[16] The exception would be only in those instances where there is a conflict between the new rules and Subpart M of Part 90. See § 90.351 for our policy on this point.

[17] See §§ 90.7, 90.471–90.475.

with a dial-up control point, arguing that "dial-up circuits have the same function and control regardless of whether the system is interconnected or not." We agree. It must be pointed out, however, that interconnection in this case would not be allowed at the dial-up control point, but must be accomplished at the base station, at a wireline control point, or at a control station, for the following reasons.

26. First, under most circumstances, a dial-up control point is not electrically connected to the transmitter except when it is actually being used. If the point of interconnection is the location of the dial-up control point, it would be necessary to forward the incoming call to the transmitter access telephone number, and some means would have to be provided for the caller in the PSTN to bypass the licensee's individual transmitter access code. Section 90.461(c)(2), requires the use of circuitry which would make it impossible for a person in the PSTN to "turn this electronic key" which is incorporated into the transmitter control interface hardware, and gain access to the transmitter. Thus, even if we were to allow it, automatic interconnection at a dial-up control point would appear to be an unwieldly and expensive proposition. If the person in the PSTN were to dial the transmitter access number directly, the transmitter access telephone number would be "tied-up" by the user in the PSTN, and the licensee would not have control of the transmitter unless some alternative means of transmitter control were provided. The burden of system supervision, then, would have to fall on a mobile unit operator who, under the transmitter control rules, would not have the capability to properly regulate the communications. Therefore, in this situation all of the appropriate requirements of § 90.483 would have to be complied with. Clearly, the same communications circuit may not be used for both transmitter control and interconnection.

27. In summary, then, when we talk about an "internal" system, we mean to refer to a particular mode of operation which does not necessarily preclude other modes of operation. The same is true of a "dial-up" transmitter control system. The two types of systems are intended to serve as substitutes for the traditional transmitter control arrangement where a control point operator supervises a control point which is permanently linked to the transmitter, and associated dispatch points. However, just as it is possible for a transmitter to have multiple control points, it is possible for such a station to utilize multiple but independent modes of transmitter control. Thus, it is possible for a station to be controlled from a conventional control point, a "dial-up" control point (which may be seldom used) and an "internal system". Further, such a station could be interconnected, if the interconnection was in accord with the interconnection rules, but the interconnection could not take place at a "dial-up" control point, or at a point in the "internal system," since these positions are intended solely for the use of the licensee. Licensees with complex communications systems involving the use of microwave or other operational fixed point-to-point links comply with all applicable requirements when they provide a separate circuit for each mode of transmitter operation.

Requests Concerning Paging Operations

28. A number of points were raised on reconsideration directed to our new rules governing paging operations. Some parties (UTC and FWMS, as examples) ask that more liberal rules be adopted; while TNA argues that the rules adopted afford sufficient options to licensees to permit them to meet all reasonable paging requirements. But TNA also asks that we specifically state that paging on interconnected mobile systems is prohibited, otherwise the restriction we imposed on the direct dial paging would be easily circumvented.

29. We believe our rules are reasonably clear on this point. The type of operation described by TNA is clearly prohibited by § 90.487(c) which states, in part: "Paging signals, as such, may not be transmitted from telephone positions in the public, switched, telephone network, notwithstanding the fact that the radio system employed may be interconnected with the telephone network and meet the conditions set out in §§ 90.477–90.483 * * *." The rules are very clear on this point and further clarification is not needed.

30. Next, UTC asks that we amend the rules to permit direct access paging from PSTN positions in the Power Radio Service. The new rules were designed to assure that licensees exercised that degree of control over paging operations commensurate with their duties and responsibilities as licensees. Our experience through the years has been that in paging operations, where PSTN positions were treated as "dispatch" points, supervision by control operators was often lacking entirely, or improperly carried out. In some cases (especially in tone-only paging operations), we found it was not possible for the control point operator to be assured at all times that the paging system was being used for permissible purposes by persons with proper authority from the licensee. It was in these circumstances that the strict rule on PSTN-accessed paging was adopted; and we are not persuaded that it should be relaxed as UTC requests.

31. NABER and FWMS ask for similar relief, favoring a more liberal approach to paging. NABER feels that PSTN-access paging should be allowed, for example, for medical societies, hospitals, doctors, and certain other classes of users. FWMS argues that as a minumum, we should allow tone and voice paging by medical societies licensed in the Special Emergency Radio Service, particularly where the paging is conducted on "paging-only" channels; and where it is under direct and constant supervision by a control operator stationed at a fixed control point. FWMS adds, as a further argument, that the limitation adopted is, in any event, an illegal one, since it goes beyond the scope of the Notice.

32. We do not believe that the action we have taken goes beyond the scope of the intital Notice. While we did indicate that one-way paging arrangements were not our primary concern,[19] they were, nevertheless, included.[20] Further, paging systems similar to those mentioned by FWMS were described in the comments; and were given careful consideration prior to our development of the final rules.[21] However, we were not and we are not yet convinced that in view of the traditional problems associated with such operations, we should relax the rules as requested. The Commission has the power to waive these rules where, as FWMS points out, a good case is made that direct dial is needed and provisions have been made for effective operator supervision of the system. But we still maintain the view that the rules we have placed on paging operations should be retained. Accordingly, the requests of FWMS and other parties to relax our adopted paging requirements are denied.

Request To Permit Automatic Interconnection on a Case-by-Case Basis Only

33. Section 90.483(c) allows automatic interconnection where certain design features are employed.[22] TNA feels that

[19] See the Notice of Inquiry and Notice of Proposed Rule Making (FCC 76-603), Docket No. 20846, 41 FR 28540 (July 12, 1976), Paragraph 7.

[20] Ibid. Paragraph 6.

[21] See the First Report and Order (FCC 78-622), Docket No. 20846, 43 FR 38396, (August 28, 1978), Appendix A. The comments of the Tarrant County Hospital District and the Dade County Medical Association, Inc. were particularly informative.

[22] Among these are the use of "automatic monitoring equipment" at the base station, restricted initial access from PSTN positions, and a timer to limit communications to three minutes and to safeguard against malfunction.

this method of operation should be allowed only in special circumstances; and that the Commission should decide what these circumstances are on a case-by-case basis only.

34. We have examined TNA's suggestion in light of the administrative burdens it would impose (which we feel would be great) and the public interest objectives that would be achieved by case-by case review. We have concluded that with the requirements we have imposed for inter-connected operation, we could not accomplish more by way of assuring system control than what already flows out of the present rule requirements. When a system is operated in this fashion, while it may be first accessed from the PSTN, all that is permitted is the transmission of an "alerting signal".[23] The licensee's mobile operator than takes control and supervises the use and operation of the interconnected facility. There are further requirements under the referenced rule provisions, and we cannot think what conditions we might add to guard against improper use. In all, we are convinced that the rule provisions as they stand are adequate; and that no useful purpose would be served by following the procedure outlined by TNA. Therefore, this relief will not be granted.

Packaging

35. In Docket No. 18921,[24] we adopted an interim policy which precludes third parties who were not licensees from offering both radio equipment (either on a sale, rental or lease basis) and "radio dispatching" services to licensees or users of shared systems. TNA says that since the dispatchers or operators have now been replaced in automatically interconnected systems, this policy can be easily circumvented. It suggests that we adopt a rule in this proceeding which would prohibit licensing shared systems for which both the radio equipment and the automatic interconnection is furnished by the same third party. This request will be denied. As noted, the policy to which TNA referred to was proposed in Docket 18921. That proceeding is still open, and we believe that decision on the types of shared systems we should authorize should be made in that proceeding.

Request To Eliminate the 3-Minute Limitation Rule

36. In fully automatic interconnected mobile systems (which are not under the supervision of the licensee's control point operator at a fixed control point) we limited interconnected communications to 3 minutes. This serves two purposes. First, it limits all calls to or from PSTN positions to 3 minutes in order to give other co-channel licensees an opportunity to gain access to the frequency; and, second, it closes the system down in order to safeguard against possible system malfunction. Both API and UTC see this as a "dangerous" limitation, particularly taking into account the nature of operations of Power and Petroleum licensees. This, they say, often involves emergency traffic carried over interconnected circuits, and such messages cannot always be completed within the 3 minute timeframe permitted. In these circumstances, API and UTC ask that the limitation be deleted.

37. TNA, however, feels that the revision requested by API and UTC is not necessary, since utilities and petroleum companies are generally large concerns with control operators on duty 24 hours a day. But API and UTC point out in reply that this is not necessarily so; that in many rural areas (and even in urban areas during nighttime hours) control operators or "dispatchers" are not necessarily on duty, and that there is a real need for more flexibility under the § 90.483(c) option. They strongly urge that the capability of automatic interconnection is needed and that the 3 minute time limit is impractical and even dangerous, considering the nature of Power and Petroleum communications requirements.

38. We agree with the petitioners that the 3 minute restriction in the Power and Petroleum Radio Service is not desirable; and we believe that similar arguments could be made on behalf of licensees in certain of the Public Safety Radio Services, the Special Emergency Radio Service and the Railroad Radio Service. We see their situation as being generally parallel to that portrayed by API and UTC on behalf of their radio users. Further, we recognize that in these higher priority services, it may, in fact, be dangerous to automatically terminate communications at the end of a 3 minute period. This could lead to unwarranted and unfortunate disruption of essential emergency communications, with resulting harm to the public. Accordingly, we have concluded that an exception should be made in these services, and that the rule should be modified to permit elimination of the 3 minute timer in the Police, Fire, Local Government, Special Emergency, Power, Petroleum and Railroad Radio Services. We will retain the requirement in the remaining Part 90 services; and we will also preserve the requirement for a timer for the purpose of deactivating the radio system in case of malfunction.

Request To Modify the Rule Governing Control Operator Requirements

39. Section 90.463(a) sets certain standards for the control operator (i.e., the person designated by the licensee to exercise supervision and control over the operation of the station). It provides that the control operator may be the licensee, an employee of the licensee, an agent of the licensee, or a third-party contractor. TNA objects to permitting third-party contractors to serve as control point operators because, TNA argues, such arrangements, by their very nature, permit such parties to act independently of licensees in the use of the radio facilities. Further, TNA says that all arrangements involving "agency relationships" should receive approval by the Commission prior to implementation; otherwise, abuse of the Commission's processes would be possible. Various examples are given by TNA to illustrate its point. In reply, API points out that third-party contractors are employed widely to perform control operator functions, particularly in remote areas; and that the harm, if there is any, is not so much in what the person who performs duties for the licensee is called, but rather, it subsists in the nature of the arrangement made between the licensee and the person.

40. API is correct in its view. A licensee may or may not be responsive to the requirements of law and FCC regulations. The same is true of an employee or agent of the licensee. Abuse of the rules is always possible, and is not more or less likely in cases where the control functions are carried out by third-parties. The rules already cover this concern, in that they specifically state that in no case, through appointment or designation of any person to serve as a control point operator, may the licensee delegate any of the duties and responsibility the licensee may have in his or her capacity as licensee.[25] Further, this requirement is coupled with those set out in Section 90.403 which states, in part, that licensees may not, through written or oral agreements or otherwise, relieve themselves of any duty or obligation imposed upon them by law, as licensees. These regulations, taken together, guard sufficiently against the problem TNA projects; and we see no need to modify our regulations in this regard.

[23] See § 90.483(c)(2).

[24] See *Multiple Licensing—Safety and Special Radio Services*, 24 FCC 2d. 510 (1970), at p. 519 *et seq.*

[25] See § 90.463(a).

Compliance Dates

41. The new rules adopted in the First Report and Order became effective on October 16, 1978, for new systems; but we allowed a 5 year period approximately (until January 1, 1984) for licensees of existing systems to bring their facilities into compliance with the new regulations. TNA would like to see this changed and asks that licensees seeking renewal of existing authorizations after October 16, 1979, "be required to be in compliance with the rules and should be required to make an affirmative showing in this regard, just like new station applicants." [26]

42. The (approximately) 5 year time period was chosen in light of the magnitude of the impact of the new rules on existing systems, many of which were authorized in the Business Radio Service and are presently interconnected within the 75 mile restricted zone. Further, many paging systems are in operation and are being accessed directly from the PSTN, perfectly permissible under prior policies, but now prohibited. These, too, will have to be brought into compliance by the January 1, 1984, deadline. Also, the new requirements for "internal" transmitter control systems will have to be met, and there are many systems of this type which do not now meet the exacting new requirements for operation in this mode. In all, the time afforded is not unusual in cases like this. Further, it avoids any Section 316 question,[27] and affords licensees reasonable opportunity for adjustments and for equipment in use to be amortized on a just basis. In these circumstances, then, the relief TNA asks is denied.

43. We were also asked to clarify our policy as to whether or not the grandfather provisions apply only to "interconnected" radio systems; or do they also extend to "paging" operations, "internal" systems, radio facilities which are "shared" within the meaning of § 90.481, and, strangely enough, to systems which are in operation but may have been "illegal" under prior Commission rules and policies. The short answer is that the grandfather provision (i.e., the January 1, 1984, deadline) was intended to apply to all modes of operation covered by the new rules. It does not, however, apply to systems "illegally" designed and operated under prior law policies. Thus, if a licensee's "shared" radio system, licensed in the Business Radio Service, uses an "automatic" patch for interconnection at a shared base station location, that system, which would have been "illegal" prior to the new rules, would not be permitted to continue in an "illegal" fashion for the grandfather period. Further, systems in restricted areas which were interconnected "illegally" before, may not now be modified to comply with the present rules in order to operate under the grandfather provision.

Summary and Conclusion

44. We have carefully considered all of the matters advanced by the parties in their petitions for reconsideration, as well as in their respective oppositions and replies. Basically, we have found that the major concerns of the petitioners were in rule interpretations, rather than in the substantive requirements of the new rules adopted in the First Report and Order in this proceeding. Accordingly, we have directed our attention principally to such matters and have clarified and interpreted the rules where we thought necessary. In a few instances, the rules are being amended to eliminate what we have found, upon reconsideration of the presentations of the parties, to be burdensome requirements, or ones which were unnecessary to our regulatory goals and objectives. Therefore, we affirm, in principal measure, our actions in adopting the rules to govern licensee control, "internal" systems of communication, "dial-up" transmitter control, paging operations, and the new rules governing the interconnection of private land mobile radio systems licensed in the Part 90 Services, with the facilities of wireline common carriers. Such rule changes as we have deemed necessary or desirable are set forth in the attached Appendix. In addition, we have made minor word changes for greater clarity or to correct inadvertent errors.

45. Accordingly, it is ordered, effective December 19, 1979, that Part 90 of the Commission's rules is amended as shown in the Appendix, pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. It is further ordered, that the petitions for reconsideration filed herein and above-referenced, are granted, to the extent indicated in the foregoing opinion, and in all other respects, are denied. Further information on this matter may be obtained by contacting James E. McNally, Jr., Private Radio Bureau, Rules Division, at (202) 254–6884.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303.))

Federal Communications Commission.

William J. Tricarico,

Secretary.

Attachment

Appendix

Part 90 of the Federal Communications Commission's Rules and Regulations is amended as follows:

1. Section 90.7 is amended by modifying the definition of "Interconnection" to read:

§ 90.7 Definitions.

* * * * *

Interconnection. Connection, either through automatic or manual means, of private mobile radio communications systems with the facilities of the public, switched telephone network to permit the transmission of messages or signals between points in the public telephone network and persons served by the private mobile radio systems. Wire line or radio links furnished by common carriers and used by licensees for transmitter control, including dial-up circuits, are not included within this definition of interconnected systems. Such facilities are treated as separate and distinct and are regulated under the provisions of § 90.461.

* * * * *

2. A new § 90.460, is added to Subpart O, to read as follows:

§ 90.460 Scope.

This subpart sets forth the provisions relating to permissible methods of transmitter control and interconnection (see the definition in § 90.7) of radio systems authorized under this part. The rules become effective for new systems on October 17, 1978. Licensees of existing systems shall bring their facilities into compliance with the provisions of this Subpart by January 1, 1984.

3. In § 90.461, paragraph (c)(5) is amended to read as follows:

§ 90.461 Direct and remote control of transmitters.

* * * * *

(c) * * *

(5) Interconnection, within the meaning of §§ 90.7 and 90.477 through 90.483, may not take place at a control point which connects to its associated transmitter(s) through dial-up circuits; nor may such dial-up transmitter control circuits be used in conjunction with (or shared by) interconnection equipment.

Subpart O—[Amended]

4. Subpart O of Part 90 is amended by including the heading, "Internal Transmitter Control Systems", following

[26] TNA Petition, page 20.

[27] See Section 316(a) of the Communications Act of 1934, as amended.

§ 90.469 and preceding § 90.471; and the heading, "Interconnected Systems", following § 90.475 and preceding § 90.477.

5. In § 90.471, the headnote and text are amended to read as follows:

§ 90.471 Points of operation in internal transmitter control systems.

The transmitting facilities of the licensee may be operated from fixed positions located on premises controlled by the licensee. The fixed position may be part of a private telephone exchange or it may be any position in a closed or limited access communications facility intended to be used by employees of the licensee for internal communications and transmitter control purposes. Operating positions in internal transmitter control systems are not synonymous with dispatch points (See § 90.467) nor with telephone positions which are part of the public, switched telephone network; and the scheme of regulation is to be considered and treated as being different. See §§ 90.485 through 90.489.

6. In § 90.473, the headnote and text are amended to read as follows:

§ 90.473 Operation of internal transmitter control systems through licensed fixed control points.

An internal transmitter control system may be operated under the control and supervision of a control operator stationed at a fixed control point in the system. In such a case, the control point must be equipped to permit the control operator to monitor all traffic to and from fixed positions and mobile stations or paging units of the licensee; and the system shall be so designed to permit the control operator to either disconnect any operating position in the internal system from the transmitter control circuit or to close the system down entirely at will.

7. In § 90.475, the headnote, paragraph (a) and paragraph (a)(2) are amended to read as follows:

§ 90.475 Operation of internal transmitter control systems in specially equipped systems.

(a) An internal transmitter control system need not be designed to meet the requirements of § 90.473 if it meets the following requirements:

* * * * *

(2) An internal transmitter control system may be used in conjunction with other approved methods of transmitter control and interconnection; *Provided, however,* That the internal transmitter control system, itself, is neither accessed from telephone positions in the public, switched telephone network, nor uses dial-up circuits in the public, switched telephone network.

* * * * *

8. In § 90.463, paragraph (e)(2) is amended to read as follows:

§ 90.463 Transmitter control points.

* * * * *

(e) * * *

(2) To terminate any transmission(s) or communication(s) between points in the public communications system and the private communications system.

* * * * *

9. A new § 90.476 is added to Subpart O, after the new heading, "Interconnected Systems" (see Instruction 4) to read as follows:

§ 90.476 Interconnection of fixed stations and certain mobile stations.

Fixed stations and mobile stations used to provide the functions of fixed stations pursuant to the provisions of paragraphs (c)(4), (c)(36) or (d)(4) of § 90.75, are exempted from the interconnection provisions of the remainder of this Subpart (§§ 90.477 through 90.483) and may be interconnected with the facilities of common carriers, subject to applicable tariffs.

§ 90.477 [Amended]

10. In § 90.477, paragraph (e) is deleted.

11. In § 90.483, paragraph (c)(4) is amended to read as follows:

§ 90.483 Special requirements pertaining to the methods of interconnection.

* * * * *

(c) * * *

(4) A timer shall be installed at the base station transmitter(s) which shall limit communications to three (3) minutes. After the three (3) minutes, the system shall close down, with all circuits between the base station and the public, switched telephone network disconnected; *Provided, however,* That this provision will not apply to systems licensed in the Police, Fire, Local Government, Special Emergency, Power, Petroleum and Railroad Radio Services, except that systems in these services shall be equipped with a timer that will close down the transmitter(s) not more than three (3) minutes after completion of communications in progress, as a safeguard against system malfunction.

[FR Doc. 79-36013 Filed 11-21-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 95

[RM-2912; FCC 79-722]

Personal Radio Services; Permitting Cross-Border Communications With Canadian General Radio Service Licensees

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: In response to correspondence from the Canadian Government and a petition, the Commission authorizes cross-border communications between United States Citizens Band licensees and Canadian General Radio Service licensees. Such communications had heretofore been prohibited.

EFFECTIVE DATE: May 6, 1980.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, (202) 254-6884.

SUPPLEMENTARY INFORMATION:

Order

Adopted: November 6, 1979.

Released: November 14, 1979.

By the Commission.

In the matter of amendment of Citizens Band Radio Service rules to permit cross-border communications with Canadian General Radio Service licensees.

1. The Commission has under consideration amending Part 95 of the Commission's Rules to authorize licensees in the Citizens Band (CB) Radio Service to communicate cross-border with licensees in the Canadian General Radio Service (GRS). We have received correspondence from the Canadian Government and a petition for rule making, RM-2912, filed by Mr. Fred C. Blackwell, publisher of the CB Voice, Statesville, North Carolina, both expressing interest in and support for authorizing cross-border CB-GRS communications.

2. The Canadian counterpart of the Citizens Band Radio Service is the General Radio Service. Both services have experienced phenomenal growth in the past few years. In the United States, there are now approximately fifteen million CB licensees. In Canada, there are over 600,000 GRS licensees. The technical standards, allocated frequencies, and operating rules of the two services, for the most part, are the same. Since 1970, a reciprocal permit system with Canada has been in effect which allows their licensees to operate their stations in the United States while on vacation or business. Under a

reciprocal permit, U.S. CB licensees have the same privileges in Canada.

3. However, despite the compatibility of the two services, the regulations of both countries prohibit communications by one of their licensees with a foreign station. This means that although a CB licensee may communicate with a Canadian visiting in the United States (visiting GRS licensees are not foreign stations because they have been granted a temporary permit to operate in the Citizens Band Radio Service), communications with that GRS licensee when the Canadian is back in Canada are not permitted.

4. The purpose of prohibiting communications with foreign stations originally was twofold. One was to prevent communications between radio services that were incompatible. In many countries, the 27 MHz range is used for either land mobile or amateur radio and operating rules are vastly different from CB radio. Second, it was meant to prevent CB licensees from attempting to send long-distance signals via skywave propagation ("skip"). These two problems, for the most part, do not apply in the case of CB–GRS communication. The United States and Canada share a 5500 mile border, including several large population centers, the most notable being Detroit-Windsor, and communications across this border would normally be ground wave transmissions. Therefore, we believe that communications between CB and GRS licensees should be permitted. However, to make clear the Commission's position, by authorizing U.S.-Canadian cross-border communications for the Citizens Band Radio Service, we are in no way modifying the prohibition against communications over 250 kilometers (155.3 miles).

5. The specific rule amendment we are adopting is set forth in the Appendix. Authority for this amendment is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. The amendment is basically deregulatory. Since no party would be adversely affected by the rule changes; since public comments, we believe, would be unlikely; and, because of the delay in the effective date of the rule, we are dispensing with the prior notice and public procedure provisions of the Administrative Procedure Act as unnecessary, 5 U.S.C. 553(b). The effective date of the rule change herein ordered is to be six months after the adoption date of this Order so that permission for cross-border communications will occur simultaneously in both the United States and Canada.

6. Accordingly, It is ordered, effective May 6, 1980, that Part 95 of the Commission's Rules is amended as set forth in the attached Appendix, and that this proceeding is terminated.

7. For further information on these rule changes, contact Maurice J. DePont, (202) 254–6884.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 95 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

§ 95.401 [Amended]

* * * * *

I. Section 95.401 (CB Rule 23(a)(1)) is amended to read as follows:

CB Rule 23. What communications are prohibited?

(a) * * *

* * * * * *

(11) To communicate with unlicensed stations or stations in other countries, except General Radio Service stations in Canada; and,

* * * * *

Agreement Between the Government of the United States of America and the Government of Canada Relating to the Operation of Radio Telephone Stations

The Government of the United States of America and the Government of Canada, being desirous of establishing rules to permit certain radio station licensees of either country, upon compliance with certain conditions, to operate radio telephone stations in the other country have agreed as follows:

Article I

It is agreed that the Governments of Canada and the United States of America, finding their respective licensees qualified to operate a radio telephone station in their own country, shall permit licensees in the Canadian General Radio Service, and licensees in the United States Citizens Band Radio Service, to operate their stations in the territory of the other country, subject to the following conditions:

(a) The appropriate administrative agency of the host Government may:

(1) deny the privilege of operation to any visiting licensee at its discretion;

(2) grant the privilege of operation to any visiting licensee under such conditions, restrictions, and terms as it may prescribe;

(3) modify the privilege of operation of any visiting licensee under any conditions, restrictions or terms as it may prescribe;

(4) cancel the privilege of operation of any visiting licensee at any time at its discretion.

(b) The visiting licensee shall identify the station by the call sign issued by the licensing country.

(c) In all other respects, the station shall be operated in accordance with the laws and regulations of the host country which apply to the corresponding radio service of the host country.

(d) In the event of rule violations by the visiting licensee, it shall be the responsibility of the host country to take appropriate actions.

Article II

The present convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible. The present convention shall enter into force on the day of the exchange of instruments of ratification and shall continue in force thereafter subject to the termination by either Government giving six months notice in writing of its intention to terminate.

[FR Doc. 79-36083 Filed 11-21-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5721]

Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with the Chief Executive Officer of each community listed, finds that modification of the proposed Special Flood Hazard Areas (SFHAs) for those communities is appropriate as a result of requests for changes in the interim rule.

DATES: These modified SFHAs are in effect as of the dates listed in the sixth column of the attached list and amend the Federal Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified SFHA determinations for each community are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator has

published a notification of modification of the SFHAs in prominent local newspapers for the communities listed below. Ninety (90) days have elapsed since that publication, and the Administrator has received appeals from the communities requesting changes in the proposed SFHA determinations.

The numerous changes made in the SFHAs on the Flood Insurance Rate Map for each community make it administratively infeasible to publish in this notice all of the SFHA changes contained on the maps. However, this notice includes the address of the Chief Executive Officer where the modified SFHA determinations are available for inspection.

The modifications are pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (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 65 (Presently appearing at its former section 24 CFR Part 1915)).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

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

These SFHAs together with the flood plain management measures required by § 60.3 (Presently appearing at its former § 1910.3) of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified SFHAs shall 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 contents.

The changes in the SFHAs listed below are in accordance with 44 CFR 65.4. (Presently appearing at its former 24 CFR 1915.4):

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Colorado	Garfield	City of Rifle	*The Rifle Telegram*, Aug. 23 and Aug. 30, 1978.	Mr. Daniel W. Deppe, City Manager, City of Rifle, P.O. Box 1908, Rifle, Colorado 81650.	Sept. 1, 1978	085078B
Missouri	St. Louis	City of Ferguson	*The Northwest County Journal*, Aug. 23 and Aug. 30, 1978.	Honorable Charles H. Grimm, Mayor, City of Ferguson, City Hall, 110 Church Street, Ferguson, Missouri 63135.	Sept. 1, 1978	290351C
North Carolina	Dare	Town of Manteo	*Manteo Coastland Times*, Sept. 5 and Sept. 12, 1978.	Honorable Carlisie N. Davis, Mayor of Town of Manteo, P.O. Box 246, Manteo, North Carolina 27954.	Sept. 8, 1978	375355E
Tennessee	Hamilton	City of East Ridge	*Chattanooga Times*, Sept. 20 and Sept. 22, 1978.	Honorable G. W. White, Mayor of East Ridge, 1501 Tombrast Avenue, East Ridge, Tennessee 37412.	Sept. 15, 1978	475424C
Colorado	Adams	City of Commerce City	*The Adams County Almanac*, Sept. 28 and Oct. 5, 1978.	Honorable Allen Williams, Mayor, City of Commerce City, 529 East 60th Street, Commerce City, Colorado 80022.	Oct. 16, 1978	080006C
Mississippi	Jones	City of Laurel	*The Laurel Leader-Call*, Oct. 12 and Oct. 13, 1978.	Honorable W. L. Patrick, Jr., Mayor, City of Laurel, City Hall, P.O. Box 647, Laurel, Mississippi 39440.	Oct. 13, 1976	280092C
Oregon	Umatilla	City of Pendleton	*The East Oregonian*, Nov. 2 and Nov. 3, 1978.	Honorable Joe McLaughlin, Mayor, City of Pendleton, P.O. Box 190, Pendleton, Oregon 97801.	Nov. 3, 1978	410211C
New Jersey	Mercer	Township of Hopewell	*The Hopewell Valley News*, Nov. 2 and Nov. 9, 1978.	Honorable Caroline E. Woodward, Mayor, Hopewell Township, Hopewell Township Municipal Building, Route 545 Scotch Road, Titusville, New Jersey 08560.	Nov. 10, 1978	345298B
Colorado	Boulder	City of Louisville	*The Louisville Times*, Nov. 25 and Nov. 30, 1978.	Honorable John Waschak, Mayor, City of Louisville, 749 Main Street, Louisville, Colorado 80027.	Dec. 1, 1978	085076D
Florida	Palm Beach	Town of Gulf Stream	*The News-Journal*, Dec. 7 and Dec. 14, 1978.	Honorable William F. Koch, Mayor, Town of Gulf Stream, 246 Sea Road, Gulf Stream, Florida 33444.	Dec. 15, 1978	125109C
New Jersey	Union	City of Elizabeth	*The Daily Journal*, Nov. 30 and Dec. 1, 1978.	Honorable Thomas Dunn, Mayor, City of Elizabeth, 50 West Scott Place, Elizabeth, New Jersey 07201.	Dec. 1, 1978	345523D
North Carolina	Guilford	City of Greensboro	*The News-Record*, Dec. 8 and Dec. 15, 1978.	Honorable James Melvin, Mayor, City of Greensboro, Drawer W–2, Greensboro, North Carolina 27402.	Dec. 15, 1978	375351B
North Carolina	Transylvania	Town of Rosman	*The Transylvania Times* Dec. 12 and Dec. 15, 1978.	Honorable Guy A. Mull, Jr., Mayor, Town of Rosman, P.O. Box 636, Rosman, North Carolina 28772.	Dec. 8, 1978	375356B
North Dakota	Cass	City of Fargo	*The Fargo Forum*, Nov. 24 and Dec. 1, 1978.	Honorable Jon G. Lindgren, Mayor, City of Fargo, 201 4th Street, North, Fargo, North Dakota 58102.	Dec. 1, 1978	385364B
Florida	Palm Beach	Village of Tequesta	*The Courier Highlights*, Dec. 28, 1978 and Jan. 4, 1979.	Honorable Howard F. Brown, Mayor, Village of Tequesta, P.O. Box 3273, Tequesta, Florida 33458.	Jan. 5, 1979	120228E
Texas	Aransas	City of Rockport	*The Rockport Pilot*, Jan. 26 and Feb. 4, 1979.	Honorable Walter S. Falk, Jr., Mayor, City of Rockport, 319 N. Broadway, P.O. Box 1058, Rockport, Texas 78382.	Jan. 16, 1979, 1916B	485504C
New Jersey	Atlantic	City of Atlantic City	*Atlantic City Press*, Feb. 2 and Feb. 9, 1979.	Honorable Joseph Lazarow, Mayor, City of Atlantic City, 1301 Bacharach Boulevard, Atlantic City, New Jersey 08401.	Jan. 23, 1979, 1916B	345278B
Idaho	Blaine	City of Ketchum	*The Wood River Journal*, Jan. 26 and Feb. 8, 1979.	Honorable Gerald N. Seiffert, Mayor, City of Ketchum, P.O. Box 567, Ketchum, Idaho 83340.	Jan. 16, 1979, 1916B	16003B

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Florida	Palm Beach	Town of Highland Beach	*The Sun Sentinel*, Jan. 25 and Jan. 26, 1979.	Honorable Louis Y. Horton, Mayor, Town of Highland Beach, 3614 South Ocean Boulevard, Highland Beach, Florida 33431.	Jan. 26, 1979	125111E
Florida	Palm Beach	Town of Jupiter Inlet Colony	*The Courier Highlights*, Jan. 18, and Jan. 25, 1979.	Honorable George Bachman, Mayor, Town of Jupiter Inlet Colony, P.O. Box 728, Jupiter Inlet Colony, Florida 33458.	Jan. 26, 1979	125120C
Florida	Palm Beach	Town of Jupiter	*The Courier Highlights*, Feb. 1 and Feb. 8, 1979.	Honorable Donald Faucher, Mayor, Town of Jupiter, Town Hall, 1000 Town Hall Avenue, Jupiter, Florida 33458.	Feb. 9, 1979	125119C
New Jersey	Monmouth	Township of Ocean	*The Asbury Park Press*, Feb. 12 and Feb. 19, 1979.	Honorable Joseph Palaia, Mayor, Township of Ocean, Township Hall, Deal and Monmouth Road, Oakhurst, New Jersey 07755.	Jan. 29, 1979, 1916B	340319C
New York	Stuben	Village of Painted Post	*The Leader*, Feb. 5 and Feb. 6, 1979.	Honorable Vernon J. Patterson, Mayor of the Village of Painted Post, Box 110, Painted Post, New York 14870.	Feb. 6, 1979	360779001D
North Carolina	Forsyth	City of Winston-Salem	*The Winston-Salem Journal*, Feb. 1 and Feb. 2, 1979.	Mr. Orville Powell, City Manager, City of Winston-Salem, City Hall.	Feb. 2, 1979	375360E
Oklahoma	Canadian, Cleveland, McClean, and Pottawatomie.	City of Oklahoma City	*The Oklahoman*, Feb. 1 and Feb. 2, 1979.	Mr. James Cook, City Manager, City of Oklahoma City, 302 Municipal Building, Oklahoma City, Oklahoma 73102.	Feb. 9, 1979	405578A
Texas	Harris	City of Baytown	*Baytown Sun*, Feb. 12 and Feb. 13, 1979.	The Honorable Emmitt Butto, Mayor of Baytown, Box 424, Baytown, Texas 77520.	Feb. 9, 1979	485456B
Wisconsin	Douglas	City of Superior	*The Evening Telegram*, Feb. 22 and Feb. 23, 1979.	Honorable Bruce Hagen, Mayor, City of Superior, 1409 Hammond Avenue, Superior, Wisconsin 54800.	Feb. 23, 1979	550116-001C
Colorado	Routt	Town of Steam Boat Springs	*The Steamboat Springs*, Mar. 7 and Mar. 15, 1979.	Mr. Donald E. Barrett, President, Town Council, Town of Steamboat Springs, Town Offices, P.O. Box 1174, Steamboat Springs, Colorado 80477.	Mar. 16, 1979	080159B
Florida	Palm Beach	City of Delray Beach	*The Delray Beach News Journal, Mar. 1 and Mar. 8, 1979.*	Honorable Leon Weeks, Mayor, City of Delray Beach, 100 N.W. 1st Avenue, Delray Beach, Florida 33444.	Mar. 9, 1979	125102B
Ohio	Erie and Lorain	City of Vermillion	*The Photo Journal*, Mar. 15, 1979	Honorable Arthur R. Crow, Jr., Mayor of Vermillion, P.O. Box 317, Vermillion, Ohio 44089.	Mar. 9, 1979	395374B
Pennsylvania	Allegheny	Township of Elizabeth	*McKeesport Daily News*, Mar. 19, and Mar. 20, 1979.	Mr. Charles Carlock, Chairman of Board of Commissioners, Elizabeth Township, 522 Rock Run Road, Buena Vista, Pennsylvania 15016.	Mar. 16, 1979	420033, 0001C–0020C
Rhode Island	Providence	City of East Providence	*Providence Journal*, Mar. 19 and Mar. 20, 1979.	Mr. Paul A. Slynn, City Manager, City Hall, 60 Commercial Way, East Providence, Rhode Island 02914.	Mar. 16, 1979	445398B
New Jersey	Atlantic	City of Brigantine	*Atlantic City Press*, May 11 and May 18, 1979.	Honorable John A. Regge, Mayor, City of Brigantine, City Hall, Brigantine, New Jersey 08203.	Apr. 17, 1979, 1916B.	345286A
Connecticut	Hartford	Town of West Hartford	*Hartford Courant*, Sept. 11, Sept. 12, 1978.	Mr. Richard Custer, Town Manager, 28 South Main Street, West Hartford, Connecticut 06107.	May 11, 1979	095082A
Missouri		Marion County	*Hannibal Courier Post*, May 3 and May 4, 1979.	Mr. W. R. Sears, Marion County Clerk, Marion County Courthouse, Palmyra, Missouri 63461.	Apr. 26, 1979	290222
Arizona	Mohave	City of Kingman	*Kingman Miner*, June 28, and June 29, 1979.	The Honorable A. H. Carpenter, Mayor, City of Kingman, 310 North Fourth Street, Kingman, Arizona 86401.	June 18, 1979, 1916B.	0400608
Washington	Okanogan	City of Omak	*Omak Chronical*, May 31, and June 7, 1979.	Honorable Clarence Nash, Mayor, City of Omak, P.O. Box 72, Omak, Washington 98841.	May 22, 1979, 1916B.	530120B
California	San Luis Obispo	City of San Luis Obispo	*Telegram Tribune* July 19, and July 20, 1979.	The Honorable Lynn Cooper, Mayor, City of San Luis Obispo, California 93401.	July 2, 1979, 1916B.	060310B

(National Flood Insurance Act of 1968 (Title XIII of Housing Urban Development Act 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: October 11, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-35956 Filed 11-21-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 5722]

Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations of the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (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 65.4 (Presently appearing at its former 24 CFR Part 1915)).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

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

These elevations, together with the flood plain management measures required by § 60.3 (presently appearing at its former § 1910.3) of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4. (Presently appearing at its former 24 CFR 1915.4):

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Alabama	Tuscaloosa	City of Tuscaloosa	*Tuscaloosa News*, Aug. 25 and Sept. 1, 1979.	Mr. Ernest W. Collins, Mayor, City of Tuscaloosa, P.O. Box 2089, Tuscaloosa, Alabama 35403.	Aug. 16, 1979	010203A
California	San Mateo	City of San Carlos	*Peninsula Times and San Carlos Enquirer*, Aug. 15 and Aug. 22, 1979.	Honorable Bill Steele, Mayor, City of San Carlos, 666 Elm Street, San Carlos, California 94070.	Aug. 21, 1979	060327C
Mississippi	Lowdnes	City of Columbus	*Commercial Dispatch*, July 31 and Aug. 7, 1979.	Honorable James M. Trotterer, Mayor, City of Columbus, P.O. Box 703, City Hall, Columbus, Mississippi 39701.	Aug. 7, 1979	280180, 0005C
Missouri	Lawrence	City of Aurora	*Aurora Advertiser*, Aug. 16, 1979	The Honorable Max Solomon, Mayor of Aurora, City Hall, Aurora, Missouri 65605.	Aug. 17, 1979	290199C
North Dakota	Mercer	City of Hazen	*Hazen Star*, July 26 and Aug. 2, 1979.	The Honorable Melvin P. Beckler, Mayor, City of Hazen, P.O. Box 717, Hazen, North Dakota 58545.	July 9, 1979	380067, 0001B
Alaska		Fairbanks North-Star Borough	*News Miner*, Sept. 5 and Sept. 12, 1979.	The Honorable John Carlson, Mayor, Fairbanks North-Star Borough, P.O. Box 1267, Fairbanks, Alaska 99707.	Sept. 11, 1979	025009D
Texas	Hidalgo	City of Alamo	*Alamo News Monitor*, Sept. 27 and Oct. 4, 1979.	The Honorable Cruz Alaniz, Mayor, City of Alamo, 423 North Tower Road, Alamo, Texas 78516.	Sept. 25, 1979	480335C
Wisconsin		Manitowoc County unincorporated area.	*Herald News*, Oct. 12 and Oct. 19, 1979.	Mr. James M. Hendericks, Chairman, Manitowoc County Board, Manitowoc County Courthouse, 1010 South Eighth Street, Manitowoc, Wisconsin 54220.	Sept. 12, 1979	550236, 0080A

(National Flood Insurance Act of 1968 (Title XIII of Housing Urban Development Act 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: October 17, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79–35955 Filed 11–21–79; 8:45 am]

BILLING CODE 6718–03–M

Proposed Rules

Federal Register
Vol. 44, No. 227
Friday, November 23, 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 906

Oranges and Grapefruit Grown in Texas

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the rules and regulations governing the exemption of certain special purpose shipments of Texas oranges and grapefruit from assessments, regulations, and inspection and certification requirements prescribed under the marketing order. The proposed action is designed to facilitate the handling of fruit for relief, charity, and home use and provide adequate safeguards to assure that the fruit does not enter commercial fresh market channels.

DATES: Comments must be received not later than December 7, 1979.

ADDRESSES: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

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

SUPPLEMENTARY INFORMATION: The proposed amendment would be issued under the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in Texas. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was submitted by the Texas Valley Citrus Committee, which locally administers this marketing order program. The committee reports that a small volume of fruit for home use, relief, and charity is transported out of the production area each year. The proposed provisions are designed to facilitate the movement of fruit for these uses and provide adequate safeguards to assure that the fruit does not enter commercial fresh market outlets.

The proposal would exempt the handling of oranges and grapefruit for home use from the requirements of § 906.34 (assessments), § 906.40 (issuance of regulations), and § 906.45 (inspection and certification) and regulations thereunder. Currently, § 906.120 provides for the exemption of fruit for relief or charity from the requirements provided that the handler notifies the committee of the proposed handling and furnishes a statement that the fruit will not enter fresh market channels. Under the proposal § 906.120 would be amended to require each person to apply to the committee for a certificate of privilege prior to handling fruit for home use, relief or charity exempt from the specified regulations. The procedures would be similar to that currently prescribed in § 906.120(e) which is applicable to the handling of fruit in certain specified containers. The proposal would specify the type of information which would be required to be furnished to the committee by each applicant. The committee would consider each application and notify the applicant of the action taken on the application and the basis for denial of any application. The proposal would also make a number of minor revisions in the rule for purposes of clarification.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because of insufficient time between the date when information became available upon which this proposed amendment is based and the effective date necessary to effectuate the declared policy of the act. A determination has been made that this action should not be classified "significant". A Draft Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Telephone (202) 447–5975.

The proposal is to amend Subpart—Rules and Regulations, (7 CFR 906.100 *et seq.*) by revising § 906.120 (a), (c), (d), and (e) and by deleting paragraph (f), to read as follows:

§ 906.120 Fruit exempt from regulation.

(a) *Minimum quantity.* Any person or the occupants of any one vehicle may ship fruit from the production area during any one day exempt from the requirements of §§ 906.34, 906.40, and 906.45, and regulations issued thereunder: *Provided,* That the shipment does not exceed 400 pounds of fruit (either oranges or grapefruit or a combination of both), it consists solely of fruit not for resale, and it is not part of a shipment of fruit exceeding 400 pounds.

* * * * *

(c) *Special purpose shipments and safeguards.* (1) Fruit may be handled for relief, charity, or home use exempt from the requirements of §§ 906.34, 906.40, and 906.45 and the regulations issued thereunder: *Provided,* That the fruit shall not be offered for resale, and the handler submits, prior to any such handling, an application to the committee on forms provided by the committee. The application shall contain the name and address of the handler and such other information that the committee may require including, but not limited to, the quantity of fruit involved, license number of the conveyance, and supporting documentation. Approval of the application by the committee shall be evidenced by the issuance of a certificate of privilege to the applicant in accordance with paragraph (d).

(2) Gift packages of fruit handled pursuant to § 906.41 shall be in containers stamped or marked with the handler's name and address.

(3) Fruit may be handled exempt from regulations issued pursuant to § 906.40(d), if the following conditions are met:

(i) Each fiscal period the handler submits prior to such handling a written application to the committee on forms provided by the committee. The application shall contain the name and address of the handler, and a description of the container or containers in which such fruit would be handled.

(ii) The fruit grades at least U.S. No. 1.

(iii) The fruit is handled in closed fully telescopic fiberboard cartons with inside dimensions of 16½ x 10¾ x 10½ inches which are packed level full, and the cover and bottom section have a Mullen or Cady test of at least 250 pounds; in six-packs; in 12-packs; in

baskets of a capacity of 1 bushel or less; or in any of the containers authorized under § 906.340, provided they are stamped or marked "special purpose shipment".

(iv) Each handler shall file a report with the committee within 1 business day after each shipment handled pursuant to paragraph (c)(3). Such report shall contain the name and address of the handler; date fruit is handled; the number and type of containers and packs in such shipment; the inspection certificate numbers applicable to such shipment; name and address of the purchaser; and the license number of the truck, trailer, or automobile, as the case may be, in which the shipment was loaded.

(d) The committee or its duly authorized agents, shall approve or deny each handler's request to handle fruit under paragraph (c)(1) and (c)(3) of this section and promptly notify such handler in writing of its decision: *Provided,* That if it approves a handler's request, it shall issue a certificate of privilege as provided in § 906.44, but if it denies a request it shall advise the handler why the application was denied. The committee may rescind a certificate of privilege issued to a handler, or deny a certificate of privilege to a handler upon proof satisfactory to the committee that such handler has shipped fruit contrary to the provisions of this part. Such action denying a certificate of privilege shall apply to and not exceed a reasonable period of time as determined by the committee. Any handler who has had a certificate of privilege rescinded or denied may file a written appeal with the committee for reconsideration.

(e) *Meaning of terms.* When used herein, the term "bushel" means a unit of measure equivalent to 2,150.42 cubic inches; the term "level full" means that the fruit is level with the top edge of the bottom section of the carton; the term "six-pack" means any container with a capacity of one-eighth of a bushel; the term "12-pack" means any container with a capacity of one-fourth of a bushel; the term "basket" means any container made of interwoven material; the term "closed" means closed n accordance with good commercial practices; and the term "U.S. No. 1" means the same as in the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona) (7 CFR 2851.680–712), or the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona) (7 CFR 2851.620–653), as applicable.

Dated: November 16, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-36088 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 971

[Amdt. No. 1]

Lettuce Grown in Lower Rio Grande Valley in South Texas; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed amendment would extend through March 31, 1980, container, pack, and inspection requirements on shipments of lettuce grown in the Lower Rio Grande Valley in South Texas. Standardizing trading practices improves marketing efficiency, promotes orderly marketing of such lettuce, and helps provide better quality lettuce at reasonable prices to consumers.

DATE: Comments due December 21, 1979.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments must be submitted; the comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Donald S. Kuryloski (202) 447–6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 144 and Marketing Order No. 971 regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Lettuce Committee, established under the order, is responsible for its local administration.

This notice is based upon the recommendations made by the committee at its public meeting in McAllen, Texas, on November 1, 1979. These recommendations reflect its appraisal of the 1980 lettuce crop and marketing prospects for the season. The proposal is designed to provide orderly marketing of South Texas lettuce during the period January 1 through March 31, 1980, and is similar to the temporary regulation to be in effect from November 19 which imposes inspection and minimum container and pack requirements.

The proposed container and pack requirements would be in accord with the generally accepted commercial practices of the South Texas lettuce industry of packing specified numbers of heads of lettuce in specified sized containers limited to those found acceptable to the trade for safe transportation of the lettuce, and would prevent deceptive practices.

In addition the South Texas lettuce industry is accustomed to operating on a six day shipping week. A six day shipping week has proven adequate for five days distribution in terminal markets, therefore, proposed "packaging holidays" on Sundays would promote more efficient and orderly marketing. However, handlers would be permitted, with the approval of the committee, to package lettuce on Sunday whenever the committee finds that distribution is inadequate, or that crop damage is imminent.

No purpose would be served by regulating the containers or pack or requiring the inspection and assessment of insignificant quantities of lettuce. Therefore each person would be exempt from such requirments for up to two cartons or the equivalent of lettuce per day.

Proposed provisions with respect to special pupose shipments, including export, are designed to meet the different requirments for export and noncommercial domestic trade. Because of the production area's proximity to the Mexican border, Mexican buyers have been accustomed to acquiring small lots of production area lettuce for their home market. These buyers use lettuce which fails to meet the proposed pack and container requirements. Inasmuch as such shipments have a negligible effect on the domestic market, they should be permitted if certain safeguard requirements are met.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because (1) shipments of the 1980 crop lettuce grown in the production area are expected by, and the regulation should become effective on, the effective date herein to maximize benefits to producers; (2) information regarding the provisions of the recommendation by the committee has been disseminated among growers and handlers of lettuce in the production area; (3) a temporary regulation with identical requirements is to be effective for the period November 19 through December 31, 1979; and (4) compliance with this section should not rquire any special preparation on the part of handlers subject thereto which cannot

be completed by such effective date. A determination has been made that this section should not be classified "significant." A Draft Impact Analysis is available from Donald S. Kuryloski (202) 447–6393.

It is proposed that 7 CFR 971.320 be amended to read as follows:

§ 971.320 Handling regulation.

During the period January 1, 1980, through March 31, 1980, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the requirements of paragraphs (a), (b) and (c) of this section, or unless such lettuce is handled in accordance with paragraphs (d) or (e) of this section. Further, no person may package lettuce during the above period on any Sunday unless approved in accordance with paragraph (f).

(a) *Containers.* Containers may be only the following depth, width and length respectively:

(1) Cartons with inside dimensions of 10 inches x 14¼ inches x 21⁹⁄₁₆ inches (designated as carrier container No. 7303), or

(2) Cartons with inside dimensions of 9¾ inches x 14 inches x 21 inches (designated as carrier container No. 7306), or

(3) Cartons with inside dimensions of 14 inches x 9¾ inches x 21 inches (designated as carrier container No. 7313), or

(4) Cartons with inside dimensions of 10¾ inches x 16⅛ inches x 21½ inches (designated as carrier container No. 7312—flat pack).

(b) *Pack.* (1) Lettuce heads, packed in container Nos. 7303, 7306, or 7313; if wrapped may be packed only 18, 20, 22, 24, or 30 heads per container; if not wrapped, only 18, 24, or 30 heads per container.

(2) Lettuce heads in container No. 7312 may be packed only 24 or 30 heads per container.

(c) *Inspection.* (1) No handler shall handle lettuce unless such lettuce is inspected by the Texas-Federal Inspection Service and an appropriate inspection certificate has been issued for it, except when relieved of such requirement by paragraphs (d) or (e) of this section.

(2) No handler may transport by motor vehicle, or cause such transportation of, any shipment of lettuce for which inspection is required unless each such shipment is accompanied by a copy of an appropriate inspection certificate or shipment release form (SPI–23) furnished by the inspection service verifying that such shipment meets the pack and container requirements of this section. A copy of such inspection certificate or shipment release form shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, such inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of inspection, as shown on such certificate or form.

(d) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons or the equivalent of lettuce a day without regard to inspection, assessment, container and pack requirements. This exception shall not be applied to any shipment of over two cartons of lettuce.

(e) *Special purpose shipments.* The container, pack, and inspection requirements of this section shall not be applicable to shipments as follows:

(1) For relief, charity, experimental purpose, or export to Mexico, if a handler presents a Certificate of Privilege for such lettuce prior to handling it, pursuant to §§ 971.120–971.125; and

(2) For exports to Mexico, if the handler of such lettuce loads and transports it in a vehicle bearing Mexican registration (license).

(f) *Suspensions of packing holidays.* Upon approval of the committee, the prohibition against packaging lettuce on any Sunday may be modified or suspended to permit the handling of lettuce provided such handling complies with the procedures and safeguards specified by the committee.

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film and then packed in cartons or other containers.

(2) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this part.

Dated: November 16, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-36087 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1079

Milk in the Iowa Marketing Area; Termination of Proceeding on Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of proceeding.

SUMMARY: This action terminates the suspension proceeding that was initiated by a notice of proposed suspension of certain provisions of the order issued by the Acting Deputy Administrator, Marketing Program Operations, on October 12, 1979. The termination is based on an evaluation of pertinent information, including comments that were submitted by the public in response to the notice of proposed suspension. The suspension was found not to be warranted.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 202–447–7311.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of proposed suspension—Issued October 12, 1979, published October 17, 1979 (44 FR 59913).

This termination of proceeding is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*). In the notice of proposed suspension, the public was invited to submit comments not later than October 25, 1979.

The provisions that were proposed to be suspended for the periods indicated were:

1. In § 1079.13(d)(1), for the period November 1, 1979, through August 31, 1980, the words "as producer milk", and

2. In § 1079.13(d)(3), for the month of November 1979, the portion of the last sentence as follows: "50 percent in the months of September through November, and"; and the words "in other months".

Statement of Consideration

Kraft, Inc., has built a plant at Earlville, Iowa, which it intends to operate as a pool supply plant under the Iowa milk order. There will be no manufacturing facilities at the supply plant. Kraft, Inc., intends to supply milk that will be associated with the supply plant to the pool distributing plant of a proprietary handler in Des Moines, Iowa. The milk would move from farms directly to the Des Moines distributing plant by diversion from the Earlville supply plant. Also, milk would be diverted from the supply plant to the Kraft, Inc., nonpool plant at Galena, Illinois. The suspension was requested to facilitate the movement of such milk for the firm.

The order provides that milk may be diverted from a pool plant to another pool plant or to a nonpool plant if at least one day's production of each dairy

farmer is physically received as producer milk at a pool plant. The order provides also that the total quantity diverted during the month may not exceed 50 percent in the months of September through November, and 70 percent in other months, of the milk received at or diverted from such pool plant during the month that is eligible to be diverted by a handler.

The petitioner contends that unless the provision "as producer milk" in § 1079.13(d)(1) is suspended, at least one day's production of milk of a dairy farmer would have to be physically received at the supply plant for the milk of such farmer to be eligible for diversion as producer milk to the Des Moines distributing plant, or to the nonpool manufacturing plant at Galena, Illinois. Thus, the milk of each producer that would be involved in such diversion would have to be delivered to the supply plant at least once a month and then reloaded to be delivered to the respective plant.

The attorney for Kraft, Inc., stated that such requirement should not be necessary to pool the milk of such producers under the Iowa milk order. In his view, the fact that the milk would be received at a pool distributing plant directly from farms should be a sufficient basis for establishing the pooling and diversion eligibility for such milk under the Iowa order.

According to Kraft, Inc., if the suspension proposed for § 1079.13(d)(1) is not adopted, extra pumping of milk will be required which, it was stated, would tend to deteriorate the quality of the milk so handled. Also, the handler claimed that for the milk that is received at the supply plant, a location adjustment of minus 16 cents a hundredweight would apply in paying producers, when the sole purpose of delivering the milk to the supply plant is to qualify the producers' milk for diversion.

Kraft, Inc., claimed also that by providing 70 percent diversion for November 1979, instead of the 50 percent now provided by the order, economies of about $100 per day could be realized in the cost of diverting milk to pool and nonpool plants, considering the hauling distances to Des Moines and to Galena, Illinois, from Earlville, Iowa, and the quantity of milk involved in such diversion. According to the handler, much of the milk would be diverted to the Des Moines distributing plant, while some milk would be diverted to a Kraft, Inc., nonpool manufacturing plant at Galena, Illinois. These economies, according to Kraft, do not include the cost reduction that could be realized in reducing the milk pumping that would be involved if the proposed suspension were adopted.

The petitioner asked that the suspension be effective October 1, 1979; however, it was found in the proposed suspension notice that suspension from such date would not have provided other handlers in the market an opportunity to adjust their operations for the month of October. Accordingly, the proposed suspension was contemplated to begin November 1, 1979.

Comments were submitted by three cooperative associations that supply most of the milk used in the market. The comments were mostly in opposition to the suspension request. One cooperative supported a suspension of the 50 percent diversion provision if the reciprocal of the supply plant shipping percentages were provided. The supply plant shipping percentages are 35 percent during the months of September through November, and 20 percent in all other months. The reciprocals of these percentages would be 65 percent and 80 percent, and the cooperative would have them apply to diverted milk in each of the respective months, and for cooperative associations as well as for proprietary handlers. In this connection, there is no order language in the diversion provisions that could result in providing the reciprocals requested by the cooperative. Further, there is no basis either in petitioner's request or in the comments submitted to consider suspension of the diversion percentage for any months other than November 1979.

One cooperative observed that the proposed suspension was requested by petitioner to accommodate the diversion of larger quantities of milk to a nonpool plant. The cooperative pointed out that the petitioner had asked the Department to suspend certain provisions of the Iowa milk order under which, at the time the public was asked to comment, petitioner had neither pooled a plant nor had diverted milk from it for manufacturing. In the cooperative's view, it would be more appropriate for petitioner actually to operate the Earlville plant as an Iowa pool plant instead of requesting that certain provisions of the order be suspended based on marketing conditions that do not exist.

The cooperative stated, also, that in the absence of the one-day-a-month delivery by producers, diversions of milk to the nonpool plant from distant areas that are in no way related to the supply area for the market could be attached to the pool by diversion from petitioner's supply plant. In the cooperative's view, this result would be contrary to the purpose of the provision which is to provide an economic means of pooling milk that is regularly associated with the supply plant, as a reserve of fluid milk for the market.

Concerning the diversion percentage, the cooperative stated that the month of November has been the month of highest Class I use in relation to supply for the past two years. It pointed out that the diversion of milk accommodates the economical movement of milk from farms to manufacturing plants when milk that is associated with the market is not needed for fluid use. The cooperative stated that the petitioner had not established any need, from a marketwide standpoint, to increase the diversion limits for the month of November 1979, to accommodate the diversion of milk to a manufacturing plant.

The cooperative concluded that the petitioner's request did not establish that disorderly marketing conditions exist in the Iowa market that would justify the suspension requested. It stated that, notwithstanding the suspension request, if petitioner can establish that such conditions do, in fact, exist, then they should be reviewed at a public hearing to consider amendment of appropriate provisions.

Another cooperative stated that the delivery of a producer's milk to a pool plant at least once a month is needed to assure that milk that is pooled can actually be used as a reserve supply for the market. In the cooperative's view, absent the provision, Kraft, Inc., or any proprietary handler, could divert to a nonpool manufacturing plant milk that is nowhere near the supply plant at Earlville, Iowa, or, for that matter, anywhere near the perceived supply area of the market. In such case, the cooperative stated, the milk would not be available to supply the fluid needs of a handler.

The cooperative stated also that, considering the respective locations of the Earlville, Iowa, and Galena, Illinois, facilities, petitioner's request for a 70 percent diversion percentage for November 1979, instead of the 50 percent now provided, would enable Kraft, Inc., to divert larger volumes of milk to the Galena plant, not only saving transport costs in not shipping milk to Des Moines but gaining additional manufacturing returns for the Galena plant. In the cooperative's view this result might be an important consideration in petitioner's marketing strategy, but it would not be aimed at stabilizing marketing conditions for the Iowa market.

The cooperative stated that a further objection to the request for a higher

diversion percentage for November 1979 is that the petitioner did not furnish sufficient detail concerning the supposed $100 per day savings to Kraft, Inc., to provide the cooperative with an adequate basis for evaluating it.

A third cooperative opposed the suspension request on the basis that the once-a-month delivery provision is not a hardship. In the cooperative's view, the provision would clearly associate milk with the Earlville facility if it functions as a supply plant, thereby indicating who is to be the handler for the milk. The cooperative believes that it is not unreasonable to provide that a producer's milk should first be delivered to a pool supply plant, for example, to qualify further deliveries during the month for diversion to a nonpool manufacturing plant.

From an evaluation of the petitioner's request and the comments submitted it must be concluded that there is a bona fide question whether a suspension of the provision concerning the once-a-month delivery of producer milk at a pool plant would actually promote the efficient handling of milk for the market or whether it would accommodate the pooling of milk that is only intended to be diverted to a nonpool manufacturing plant, and reasonably could not be expected to be available to the Iowa market as part of a reserve supply for fluid use.

A further consideration is that there are no marketing conditions that make a suspension of the applicable provisions imperative. In view of the questions raised by the request, a hearing might be the most appropriate means of considering whether an amendment to the order, as contemplated by petitioner, would be warranted.

It must be concluded, also, that the petitioner did not establish the need for greater diversion of milk for November 1979 on a market basis. Further, petitioner's claim that certain financial savings would result from providing a larger diversion percentage for that month was not presented in sufficient detail to determine whether such savings represented efficient milk handling for the market.

It is therefore found and determined that the proposed suspension should be denied and that the proceeding begun in this matter on October 12, 1979, should be and is hereby terminated.

Signed at Washington, D.C., on November 16, 1979.

Jerry C. Hill,

Deputy Assistant Secretary for Marketing & Transportation Services.

[FR Doc. 79-36090 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1421

Grains and Similarly Handled Commodities; General Regulations Governing Price Support for the 1978 and Subsequent Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed Rule.

SUMMARY: The Secretary of Agriculture proposes to amend the regulation which permits the reoffering as security or repledging as collateral for a new loan any grain or similarly handled commodity that has been previously so mortgaged or pledged. The amendment is needed in order to correct a conflict in provisions of the present regulations, wherein § 1421.4(f) enables some producers to obtain loans for longer periods of time than allowed in § 1421.6(c). Producers that obtain new loans just before the close of the commodity loan availability period can in effect extend their loans up to an additional 9 months. This rule would limit the maturity date of new loans to that of the original loan. The amendment would apply to 1979 and subsequent crops.

DATES: This notice invites written comments on the proposed rule. Comments must be received on or before January 21, 1980 in order to be assured of consideration.

ADDRESSES: Director, Price Support and Loan Division, ASCS, USDA, Room 3741 South Building, P.O. Box 2415, Washington, D.C. 20013. Comments will be available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

FOR FURTHER INFORMATION CONTACT: Harold Jamison, ASCS, (202) 447-7973.

Proposed Rule

Accordingly, it is proposed to amend 7 CFR Part 1421 by revising § 1421.4(f) to read as follows:

§ 1421.4 Eligibility requirements.

* * * * *

(f) *Redeemed loan collateral.* A producer may, before the final date for obtaining a loan on a commodity, reoffer as security or repledge as collateral for a new loan any commodity that has been previously so mortgaged or pledged. Such loan shall have the same maturity date as the original loan.

* * * * *

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 105A, 107A, 201, 301, 401, 405, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444c, 1445b, 1446, 1447, 1421, 1425)

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified as "not significant." A draft impact analysis has not been prepared because the proposed rule is an operating procedure implementing provisions of the various commodity loan programs, for which impact analyses have been prepared and are available from the Director, Impact Analysis and Public Participation Staff, Ray Voelkel, U.S. Department of Agriculture, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Washington, D.C., 20013.

Signed at Washington, D.C. on November 9, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-36075 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-05-M

Farmers Home Administration

7 CFR Part 1980

FmHA Guaranteed Loan Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations pertaining to the administration of all the FmHA guaranteed loan programs. The changes involve defining local lender, requiring lender to hold a part of the unguaranteed portion of the loan, and restricting the sale of the guaranteed loan to applicants. The intended effect of these changes is to clarify FmHA's position and strengthen the guaranteed programs. This action is taken in response to Agency recommendations to correct deficiencies in the regulations as suggested by the Department's Office of Inspector General.

DATES: Written comments must be received on or before January 21, 1980.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the address given above.

FOR FURTHER INFORMATION CONTACT: Darryl H. Evans, Director, Business Management and Development Division, Telephone 202-447-4150.

SUPPLEMENTARY INFORMATION: FmHA proposes to amend § 1980.13 (a) and paragraphs III A. and III A.3.b. of Appendix B of Subpart A of Part 1980,

Chapter XVIII, Title 7, Code of Federal Regulations. These amendments are proposed to strengthen the guaranteed programs and are made by FmHA at the recommendation of the Department's Office of Inspector General. The following specific additions or revisions are proposed:

1. Section 1980.13(a) is revised to redefine local lender. Since the inception of the FmHA guaranteed programs, particularly the Business and Industry Loan Program, the requirements for a local lender have been subject to misunderstanding. The proposed revision provides more specific criteria for local lender involvement. Lenders would be considered eligible if they have a facility within 100 miles of the applicant's business location, or normally make loans in the geographic location such as a regional bank does, have specific expertise, or for business and industry have been providing the credit needs for the applicant. FmHA believes this criteria will broaden lender eligibility within its guaranteed programs. This approach should require less FmHA direct involvement in monitoring lender servicing in those projects where more experienced lenders participation is required. This change should not adversely affect small local lenders from participating in the program.

2. Paragraphs III A. and III A.3.b. of Appendix B, Form FmHA 449–35, "Lender's Agreement," are revised. In paragraph III A. the lender is restricted from selling or participating any portion of the loan to the applicant or other parties with a vested interest. This provision is necessary to eliminate any possible conflict of interest the applicant would have when a loan is guaranteed by the government. Several cases have arisen where applicants wanted to purchase a part of the guaranteed loan as an investment. FmHA believes such financing is not an arms-length transaction and is therefore, a conflict of interest. FmHA does not believe it should guarantee a loan in which the applicant or officers or stockholders of on applicant purchases a portion as an investment. This change will remove any question of interpretation of FmHA's policy on this matter.

Paragraph III A.3.b. is revised to require lenders to hold in their own portfolio a minimum of 10% of each loan(s) for Farmer Program Loan and 5% beneficial interest of the total loan(s) for other loan programs. This amount must be included in the unguaranteed portion of the loan. FmHA believes that this shared risk concept is reasonable and will result in lenders doing a better job in loan servicing. FmHA had also received from some of the secondary market dealers the suggestion of requiring lenders to hold a part of the unguaranteed portion of the loan. Present regulations permit the lender to not only sell the entire guaranteed portion of the loan, but also to participate out the total unguaranteed portion. This practice of selling off and participating out the entire loan is followed in a large portion of the guarantees made, especially multi-million dollar loans.

Although the lender is required to service and/or liquidate the loan irrespective of beneficial ownership, many lenders do not have an incentive to follow through on their servicing responsibilities as they should since they do not have any of their own funds at risk in the project. In approaching the issue of shared risk, FmHA felt that 5% (except for farmer program loans which would require 10%) of total loan amount was reasonable, rather than requiring the lender to hold a half or all of the unguaranteed portion. In addition, the requirement would not adversely affect those lenders who receive a guarantee of less than 90%. Before adopting these proposed regulations, consideration will be given to any written comments that are submitted to the Chief, Directives Management Branch.

As proposed, Subpart A of Part 1980 is amended as follows:

1. Section 1980.13(a) is amended and reads as follows:

§ 1980.13 Eligible lenders.

(a) *Local lenders.* All lenders may participate by using the various sources of capital and segments of the money market to meet the necessary financing requirement for guaranteed loan programs. Although the project may involve other lenders, investors, or packagers, the local lender will be the lead lender and the lender for pusposes of these regulations responsible for servicing and liquidate (if necessary) the loan. The lender may use agents, correspondents, branches, financial experts, or other institutions or persons to provide expertise to assist in carrying out its responsibilities. FmHA will use the lender as the point of contact for the administration of the program. FmHA may also permit a lender to be the lender for the loan without being local if:

(1) the lender normally makes loans in the region or geographic location in which the applicant's project being financed is located, or

(2) the lender has specific expertise in loans for the proposed project and provides evidence to the satisfaction of FmHA; or

(3) for B&I loans, the lender has provided, in the past, to the applicant a substantial portion of the proposed applicant's credit requirements on a regular basis.

* * * * *

2. Paragraphs IIIA. and IIIA.3.b. of Appendix B of Subpart A of Part 1980 are amended and read as follows:

Appendix B—Form FmHA 449–35, Lender's Agreement

United States Department of Agriculture

Farmers Home Administration

* * * * *

III. Lender's Sale or Assignment of Guaranteed Loan.

A. The lender may retain all of the guaranteed loan. The lender is not permitted to sell or participate any amount of the guaranteed or unguaranteed portion(s) of the loan(s) to the applicant or borrower, its officers, directors, stockholders, other owners, or any parent, subsidiary or affiliate. If the lender desires to market all or part of the guaranteed portion of the loan, the lender may proceed under the following options:

* * * * *

3. *Participation.*

* * * * *

(b) The lender is required to hold in its own portfolio or retain a minimum of 10% for Farmer Program Loans and 5% of the total guaranteed loan(s) amount for other programs. The amount required to be retained must be of the unguaranteed portion of the loan and cannot be participated to another. The lender may sell the remaining amount of the unguaranteed portion of the loan except for Farm Program Loans only through participation. However, the lender will always retain the responsibility for loan servicing and liquidation.

* * * * *

(7 U.S.C. 1989; 5 U.S.C. 301; Sect. 209, Title II, P.L. 95–334, 92 Stat. 432; Sect. 10, P.L. 93–357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statement." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, P.L. 91–190, an Environmental Impact Statement is not required.

This proposal has been reviewed under USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An approved Draft Impact Analysis is available from the Chief, Directives

Management Branch, Farmers Home Administration, USDA, Room 6346, Washington, D.C. 20250.

Dated: November 3, 1979.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 79-36091 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 27, 29, 33, 43, 45, 61, 91, 121, 127, 133, and 135

[Docket No. 18689; Notice No. 79-1C]

Rotorcraft Regulatory Review; Notice of Change in Conference Agenda

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice announcing a change in Conference Agenda.

SUMMARY: This notice announces a change in the Agenda for the Rotorcraft Regulatory Review Conference.

DATES: The Rotorcraft Regulatory Review Conference will be held on December 10–14, 1979, at the Monteleone Hotel, 214 Rue Royale, New Orleans, LA 70140 (telephone 504–523–3341)

FOR FURTHER INFORMATION CONTACT: Roger E. Riviere, Regulatory Review Branch, AVS–22, Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 755–8715.

SUPPLEMENTARY INFORMATION:

Background

Information relating to the objectives of this review and additional information relating to this Conference are contained in Notice 79–1 (44 FR 3250; January 15, 1979), which announced the Rotorcraft Regulatory Review Program, Notice 79–1A (44 FR 12685; March 8, 1979), which extended the period during which the public could submit proposals, and Notice 79–1B, which announced the availability of the Agenda and Compilation of Proposals and dates for the Conference.

Conference Schedule

The FAA has received several comments regarding the present arrangement of the Conference schedule. After careful consideration of comments received, thorough review of the Compilation of Proposals, and coordination of the conference site, it has been determined that a change in the Conference schedule is in the best interest of the public and will result in a more orderly, productive Conference.

The major Conference proceedings will be conducted through three committees identified with their area of coverage as:

I. Sections 27.1–27.873 and 29.1–29.877, Appendix A of Parts 27 and 29.

II. Sections 27.901–27.1589 and 29.901–29.1589, Part 33.

III. Parts 43, 45, 61, 91, 121, 127, 133, and 135.

A detailed schedule of proposals to be discussed in each committee is contained in the Appendix II to this Notice. The four proposals dealing with § 1.1 have been divided among the three committees as identified in the Appendix.

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

Issued in Washington, D.C. on November 16, 1979.

Charles R. Foster,

Associate Administrator for Aviation Standards.

Revised Agenda: Schedule of Events; Committee I

Monday, December 10, 1979

Morning Session

9:00 Opening Session
10:00 Coffee break
10:30 Agenda items 1, 5–8, 152–158
12:00 Lunch

Afternoon Session

1:30 Agenda items 10–12, 9, 161–163, 159–160, 13, 164–166
3:00 Coffee break
3:15 Agenda items 14, 15, 167–169, 16–18, 170–173

Tuesday, December 11, 1979

Morning Session

9:00 Agenda items 19–23, 174–178
10:15 Coffee break
10:30 Agenda items 24–26, 179–182 Appendix A
12:00 Lunch

Afternoon Session

1:30 Agenda items 29, 31, 30, 28, 27, 32, 185, 187, 186, 183, 184
3:00 Coffee break
3:15 Agenda items 33, 188, 34, 35, 189, 37, 36, 38, 192, 190, 191, 39, 40, 195

Wednesday, December 12, 1979

Morning Session

9:00 Agenda items 193, 194, 41, 196, 197, 42, 198, 43, 199
10:15 Coffee break
10:30 Agenda items 44, 200, 45, 201, 46, 47, 202, 203, 204, 48
12:00 Lunch

Afternoon Session

1:30 Agenda items 49, 205, 50, 206, 52, 51, 207, 208, 53, 54, 55, 209
3:00 Coffee break
3:15 Agenda items 210, 56–58, 211–215, 59, 60, 216, 217, 61, 62, 218–220

Thursday, December 13, 1979

Morning Session

9:00 Agenda items 221, 63, 222, 64, 223, 65, 224, 66, 225
10:15 Coffee break
10:30 Agenda items 226–228, 67, 229–233, 68, 69, 235, 70, 234
12:00 Lunch

Afternoon Session

1:30 Agenda items 71–73, 236, 74, 75, 237–239, 76, 240–242 ,
3:00 Coffee break
3:15 Agenda items 243, 77, 244, 245–247, 78–80, 248–251, 81

Friday, December 14, 1979

Morning Session

9:00 Agenda items 82, 83, 252, 253, 84, 255, 85, 256, 86, 257, 258
10:15 Coffee break
10:30 Agenda items 259–269
12:00 Lunch

Afternoon Session

1:30 Agenda items 87, 88, 270, 271, 89, 272
3:00 Coffee break
3:15 Agenda items 90, 273, 91, 274, 92, 275

Revised Agenda: Schedule of Events; Committee II

Monday, December 10, 1979

Morning Session

9:00 Opening Session
10:00 Coffee break
10:30 Agenda items 414–420, 2, 3
12:00 Lunch

Afternoon Session

1:30 Agenda items 276, 93, 277, 280, 278, 279, 94, 281, 282, 283, 284
3:00 Coffee break
3:15 Agenda items 285–287, 95, 96, 97, 288–296, 98

Tuesday, December 11, 1979

Morning Session

9:00 Agenda items 301, 297–302, 303
10:15 Coffee break
10:30 Agenda items 304, 305, 99, 306, 307, 100, 308, 101, 309
12:00 Lunch

Afternoon Session

1:30 Agenda items 310, 311, 102, 314, 312, 313, 315, 103, 316, 317, 104, 318
3:00 Coffee break
3:15 Agenda items 105, 319, 320, 106, 321, 107, 322–325

Wednesday, December 12, 1979

Morning Session

9:00 Agenda items 326, 108, 327, 109, 328–330
10:15 Coffee break
10:30 Agenda items 110, 111, 331–337, 112
12:00 Lunch

Afternoon Session

1:30 Agenda items 113, 339, 114, 338, 115, 340, 341, 116, 343, 342, 117, 344
3:00 Coffee break
3:15 Agenda items 345, 346, 118, 347, 119, 348, 120, 349, 350, 121, 351–353

Thursday, December 13, 1979

Morning Session

9:00 Agenda items 122, 354, 123, 124, 357, 125, 360
10:15 Coffee break
10:30 Agenda items 355, 356, 358, 359, 361–363, 126, 368, 364
12:00 Lunch

Afternoon Session

1:30 Agenda items 365–367, 369–371, 127, 372, 373, 128, 374, 375
3:00 Coffee break
3:15 Agenda items 376–386, 129, 387, 388, 130, 131

Friday, December 14, 1979

Morning Session

9:00 Agenda items 389, 132, 133, 390–394, 134
10:15 Coffee break
10:30 Agenda items 395, 135, 396, 136, 397, 137, 398, 399, 138
12:00 Lunch

Afternoon Session

1:30 Agenda items 400, 139, 140, 401, 141, 402, 142, 430, 143, 404, 144, 405
3:00 Coffee break
3:15 Agenda items 406, 145, 407, 146, 409, 147, 408, 148, 412, 149, 150, 410, 411, 151, 413

Revised Agenda: Schedule of Events; Committee III

Monday, December 10, 1979

Morning Session

9:00 Opening Session
10:00 Coffee break
10:30 Agenda items 4, 421–426
12:00 Lunch

Afternoon Session

1:30 Agenda items 427–434
3:00 Coffee break
3:15 Agenda items 435–444

Tuesday, December 11, 1979

Morning Session

9:00 Agenda items 445–452
10:15 Coffee break
10:30 Agenda items 453–460
12:00 Lunch

Afternoon Session

1:30 Agenda items 461–468
3:00 Coffee break
3:15 Agenda items 469–477

Wednesday, December 12, 1979

Morning Session

9:00 Agenda items 478–484
10:15 Coffee break
10:30 Agenda items 485–492
12:00 Lunch

Afternoon Session

1:30 Agenda items 493–500
3:00 Coffee break
3:15 Agenda items 501–509

Thursday, December 13, 1979

Morning Session

9:00 Agenda items 510–516
10:15 Coffee break
10:30 Agenda items 517, 520, 518, 519, 521–524
12:00 Lunch

Afternoon Session

1:30 Agenda items 525–532
3:00 Coffee break
3:15 Agenda items 533–541

Friday, December 14, 1979

Morning Session

9:00 Agenda items 542–548
10:15 Coffee break
10:30 Agenda items 549–554
12:00 Lunch

Afternoon Session

1:30 Agenda items 555–562
3:00 Coffee break
3:15 Agenda items 563–569

[FR Doc. 79-35973 Filed 11-21-79; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 25

[Docket No. 17914; Notice No. 78-8]

Modified Douglas DC-3 Airplanes With Three Turboprop Engines; Proposed Type Certification Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws a Notice of Proposed Rule Making (NPRM) which proposed to amend Special Federal Aviation Regulation (SFAR) 13 to provide a basis for approval by the Administrator of modifications to DC-3 airplanes to replace the two existing reciprocating engines with three turbopropeller engines. The notice is withdrawn because it would compromise aviation safety and would be contrary to the public interest.

FOR FURTHER INFORMATION CONTACT: Raymond E. Ramakis, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone: (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1978, the FAA issued Notice of Proposed Rule Making (NPRM) No. 78-8 (43 FR 21900; May 22, 1978), which proposed amending Special Federal Aviation Regulation (SFAR) 13 as applicable to DC-3 airplanes to provide a basis for approval by the Administrator of modifications that would replace the two existing reciprocating engines with three turbopropeller engines. SFAR 13 establishes requirements for approval of some modifications to Douglas DC-3 and Lockheed L-13 airplanes. A change in the number of engines is not a modification covered by SFAR 13. The procedural requirements for the issuance of type certificates found in Part 21 of the Federal Aviation Regulations are applicable. Under § 21.19 any person who proposes to change the number of engines on an aircraft must make a new application for a type certificate. An applicant for a new type certificate must show that the aircraft complies with the airworthiness standards in effect on the date of application. In this case, compliance with Part 25 would have to be demonstrated. The NPRM was issued in response to a petition for rule making from Specialized Aircraft that, in effect, sought to allow the DC-3 modification without making application for a new type certificate and a showing of compliance with Part 25.

Summary of Comments

Interested persons have been afforded an opportunity to comment on the notice and due consideration has been given to all matter presented. Forty-two comments from 38 commenters were received.

The thrust of the proponents' comments was that the three-engine DC-3 airplane would be safer, more economical, and more widely utilized than today's two-engine DC-3 airplanes because the airframe is proven, the powerplant is more reliable and efficient, Part 25 performance would be provided, and the systems and equipment would be more reliable. Several commenters noted the difficulty in maintaining the two reciprocating engines because fewer mechanics are trained to work on such engines and because of the increasing unavailability of parts. A number of commenters contended that, because of the anticipated export demand, the proposed rule would enhance the U.S. balance of payments. Several commenters, including some commuter airlines, indicated that the three-engine DC-3 would be especially attractive to commuter airlines. Finally, many commenters expressed their confidence in what they consider to be the proven airframe of the DC-3.

Several commenters proposed revision or deletion of § 21.19 to make it easier to make major modifications to old aircraft.

A number of commenters suggested changes to the proposal. Some, including

Specialized Aircraft, proposed deletion of the proposed power and weight limitations. Specialized Aircraft also suggested that rather than applying the Part 25 requirements for flight characteristics only a demonstration that the modification does not adversely affect the flight characteristics of the airplane be required. Aircraft Technical Service, Inc., the engineering firm working for Specialized Aircraft, indicated that it considered compliance with the fail-safe flutter criteria of § 25.629 (d)(4)(v) and (d)(4)(vi) to be impractical.

The Air Line Pilots Association (ALPA) suggested that the damage tolerance and fatigue evaluation requirements of § 25.571 be applied to the outer wing joint to assure a reasonable level of structural integrity. ALPA also suggested that compliance with the requirements of § 25.679 (control system gust locks) and § 25.775 (birdproof windshield) should be required. This commenter cited service experience as justification for its proposals.

Among the commenters opposed to the proposed rule was the Canadian Ministry of Transport (MOT) which stated that it will view the three-engine DC–3 as a new type design and apply current requirements as the basis for its type certification. MOT stated that it is not in the best interest of aviation safety that very old aircraft, designed to much less stringent standards than those in force today, have their lives extended by major redesign without being shown to comply with the latest requirements.

Douglas Aircraft Company, manufacturer of the DC–3 and holder of its type certificate, expressed its "complete opposition" to the proposal. Douglas claimed that the proposed rule was at odds with the purpose of the Federal Aviation Regulations because the engineering effort substantation, flight testing, and post-certification monitoring by the manufacturer required in the normal application for a type or amended type certificate would not be required in this case.

Three commenters, including Douglas and the Aerospace Industries Association (AIA), expressed concern that Douglas as type certificate holder and manufacturer of the original airplane, would be subject to liability for structural problems that might develop even though it had no control over the major modification proposed. AIA pointed out that aircraft manufacturers are concerned about the product liability implications where extensive modifications can be made to their aircraft by others.

One opponent expressed concern that such a radical change could be applied to such an old airframe with many thousands of hours of service without conducting detailed studies as to its continued serviceability. This commenter also contended that replacement of the propulsion system on the airplane would not solve other basic reliability problems in an airframe so long out of production that parts are increasingly difficult to find.

Finally, one commenter noted that following the DC–3 to be converted to three-engine power without making application for a new type certificate is detrimental to new aircraft manufacturers, presumably because of the competition of a less costly modified airplane. This commenter also stated that his objections from a safety standpoint include problems concerning increased speed, potential metal fatigue, effects of turbine vibration versus piston engine cycle, and lack of birdproofing.

Discussion of Withdrawal

Without disputing some of the benefits cited by those supporting the proposal, a decision as to whether the proposal should be adopted must be based upon an assessment of its effect on the FAA's ability to evaluate the safety of the proposed DC–3 modification. Upon analysis of the comments and further review of the proposal, the FAA has determined that safety can only be assured by a showing of compliance with Part 25 requirements.

The purpose of type certification is to ensure that aircraft meet minimum safety standards. The regulations which set forth these standards are continually reviewed and updated to take into account technological advances and aircraft service experience. It is only by requiring that new type aircraft meet the latest standards that the public is guaranteed to benefit from advances in aviation state-of-the-art. Adoption of this proposal would not be consistent with FAA certification policy.

Most modifications to existing aircraft can be accomplished under a supplemental type certificate. Ordinarily, compliance with the rules which formed the basis for the original type certification is sufficient. However, in the case of certain modifications to existing aircraft, covered by § 21.19, application for a new type certificate is required. As a result the applicant must demonstrate that the aircraft complies with the rules in effect at the time of that application. Included in this group of modifications is a change in the number of engines. Approval of such an extensive modification would require a substantially complete investigation of the aircraft. Evaluation is needed of the load changes, flutter, fatigue, the powerplant and its installation, aircraft systems, and flight requirements. The proposed modification of the DC–3 with its effect on the rest of the aircraft is tantamount to a new type design. To allow the three-engine DC–3, in effect, to be exempted from § 21.19 would not be in the public interest. It should be noted that no transport category airplane has been exempted from § 21.19(b)(1), which requires a new application for a type certificate and application of the latest requirements when the number of engines is changed. To adopt this proposal would establish a precedent for transport category airplanes which is completely at odds with FAA's certification requirement philosophy.

As stated in the notice, the FAA and one of its predecessors in safety regulation, the Civil Aeronautics Board (CAB), have issued special requirements applicable to certain modifications of the DC–3. These requirements are found in Special Federal Aviation Regulation (SFAR) 13. They were originally issued by the CAB in 1953 when it was recognized that the standards of Bulletin 7A under which the DC–3 was certified were inadequate for the approval of major modifications to these airplanes. This special regulation did not contemplate those extensive changes covered by § 21.19 and special treatment such as that proposed in the notice is not warranted.

Without following the type certification procedures the FAA cannot determine whether the three-engine DC–3 provides a minimum level of safety. The proposal did not contain any requirement which would have enabled the FAA to establish the structural integrity of the aircraft. A reliable propulsion system, reliable systems and equipment, and Part 25 performance cannot compensate for lack of structural integrity. Despite the fact the proponents of the proposal claim that the DC–3 airplane has a proven airframe, no substantiating data have been presented to assess its future reliability. In fact, the service history of the DC–3 indicates that there have been four fatigue accidents, four bird-strike accidents, and either control system accidents in the last twenty years. Furthermore, because of the relatively low utilization of the DC–3 in recent years the service record may appear better than it really is. The service history justifies the application of the damage tolerance and fatigue evaluation requirements of § 25.571. It also supports the application of the control system, birdproof empennage, birdproof windshield, and

other additional requirements of current Part 25. Relaxations in the proposed rule suggested by commenters to delete the flight characteristics and flutter requirements of Part 25, and the limitations on weight and power are not justified. The structural integrity of the DC-3 with the changed configuration of three engines can be proven only by demonstrating compliance with the fatigue, flutter, and other applicable airworthiness requirements of Part 25.

Experience with high-time airplanes of even more recent vintage than the DC-3 has brought the problem of aging aircraft into sharper focus. If the proposal were adopted, the FAA would be extending the life of an old airframe certificated over forty years ago for which the predicted life is unknown and may be indeterminable. It should be noted that substantiation of the fatigue requirements for any applicant other than the original manufacturer would be difficult because only it has the necessary basic design and service data. Furthermore the service history of each individual DC-3 is so varied as to make compliance with § 25.571 and the establishment of a fatigue baseline impracticable, perhaps even for the original manufacturer. In this connection it should be noted that the type certificate holder has not supplied a Supplemental Structural Inspection Document as has been done for the DC-6 and DC-7 aircraft. This information, on which a Supplementary Program for Continued Airworthiness would be based, is an essential element in any FAA determination which would extend the life of a geriatric airplane. Without a demonstration that the three-engine DC-3 complies with the applicable requirements of Part 25, the FAA cannot establish that safety would not be compromised by its certification under the proposed rule.

In conclusion, the FAA has determined that adoption of the proposed rule would compromise aviation safety and is not in the public interest.

Withdrawal of Proposed Rule Making

Accordingly, Notice No. 78-8 (43 FR 21900; May 22, 1978) entitled "Modified Douglas DC-3 Airplane with Three Turboprop Engines," is withdrawn.

(Sec. 313(a) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for the proposed regulation is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT . . ."

Issued in Washington, D.C., on November 14, 1979.

M. C. Beard,

Director, Office of Airworthiness.

[FR Doc. 79-35855 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-13-M

[Docket No. 79-NW-39-AD]

14 CFR Part 39

Boeing Model 727 Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rulemaking would require those operators of Boeing Model 727 airplanes who have removed or received airplanes without panels lining the aft ventral stairway, to replace those panels with either the original panels or an FAA approved substitute. This reinstallation is necessary because passengers may injure themselves on exposed equipment or loose objects may be deposited which can interfere with the flight control system.

DATES: Comments must be received on or before January 1, 1980.

ADDRESSES: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 79-NW-39-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Roger S. Young, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Some operators have removed the sidewall and ceiling panels of the 727 aft ventral stairway (Ref. Boeing Service Bulletin 727-25-227) exposing flight control cables and airplane equipment. There have been reports of dirt and trash accumulating in this area. Also, passengers have access to flight control cables during boarding and egress which does not comply with CAR 4b.329. An unsafe condition exists since passengers or loose objects may interfere with or jam the flight control cables. No incidents of control cable jamming have been reported.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket, Docket No. 79-NW-39-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following Airworthiness Directive:

Boeing: Applies to all Model 727 airplanes in passenger service.

A. Within the next 180 days from the effective date of this AD, all Model 727 airplanes operating in passenger service will have the panels installed in the aft ventral stairway. The original panels may be reinstalled or substitute panels may be found to be equivalent. An FAA Maintenance Inspector may be contacted to determine if other than original panels are acceptable or designs may be submitted to the Chief, Engineering and Manufacturing Branch, FAA Northwest Region for approval.

B. In lieu of replacing the panels as per Paragraph A, the aft ventral stairway shall be used only as an emergency exit and placarded as an emergency exit only.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85).

Note: The FAA has determined that this document involves a regulation which is not

considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 F.R. 11034; February 26, 1979).

Issued in Seattle, Washington, on November 8, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

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

[FR Doc. 79-35672 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-CE-34]

Transition Area—Ord, Nebraska; Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes to designate a 700-foot transition area at Ord, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Evelyn Sharp Airport, Ord, Nebraska, utilizing a Non-Directional Radio Beacon (NDB) being installed on the airport by the State of Nebraska as a navigational aid.

DATES: Comments must be received on or before December 24, 1979.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division ACE-530, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The offical docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before December 24, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by designating a 700-foot transition area at Ord, Nebraska. To enhance airport usage by providing instrument approach capability to the Evelyn Sharp Airport, Ord, Nebraska, the State of Nebraska is installing an NDB on the airport. This radio facility will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid, entails designation of a transition area at Ord, Nebraska, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, Federal Aviation Administration proposes to amend Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979 (44 FR 442) by adding the following new transition area:

Ord, Nebraska

That airspace extending upward from 700 feet above the surface within a 7 mile radius of the Evelyn Sharp Field (latitude 41°37'20" N., longitude 98°57'05" W) and within 3 miles either side of the 311° true bearing from the Ord, NDB (latitude 41°37'23", longitude 98°56'52" W) extending from the 7 mile radius area to 8½ miles northwest of the airport.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65).

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

Issued in Kansas City, Missouri, on November 7, 1979.

Paul J. Baker,

Director, Central Region.

[FR Doc. 79-35673 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 241

[EDR-392; Docket No. 37088; Dated: November 15, 1979]

Uniform System of Accounts and Reports for Certificated Air Carriers; Passenger Origin-Destination Survey

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is inviting public comment on a proposal that would require all U.S. certificated route air carriers offering scheduled passenger service (except helicopter and wholly intra-Alaska carriers) to participate in a Passenger Origin-Destination Survey based on a continuous sample of passenger tickets.

DATES: Comments by January 21, 1980.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by December 6, 1979. The Docket Section prepares the Service List and sends it to

the persons listed on it, who then serve their comments to others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 37088, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., 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, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTRACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–6044.

SUPPLEMENTARY INFORMATION: All of the U.S. certificated route air carriers existing prior to deregulation that are now providing scheduled passenger service are voluntarily participating in a Passenger Origin-Destination (O & D) Survey. The O & D Survey is based on a continuous 10 percent sample of lifted flight coupons and includes basic information on passenger origins and destinations, routings, choice of carriers, fare basis, and dollars paid for purchased transportation. The Survey has been flourishing in a cooperative environment for many years and has never been required by Board regulations.

Importance of the O & D Survey

Inside the Board, the O & D Survey has, is and will be serving a wide variety of important needs. It is being used in: (1) Terminations, reductions, and suspensions of service decisions pursuant to Section 401(j) of the Act, (2) determinations of essential air service and subsidy need projections pursuant to Section 419 of the Act; (3) bilateral negotiations with foreign governments and carrier selections in international air transportation; (4) environmental impact assessments; and (5) a variety of other formal proceedings involving calculations of market shares and fare dilutions.

It is the one tool the Board has at its disposal that can be used to compare where passengers are traveling with where the airlines have chosen to provide service. The true origins and destinations of passengers routed on different flights of the same carrier, or different flights of more than one carrier cannot be determined from the Board's largest statistical data base, service segment data. Service segment data is accumulated by carrier by flight and makes no distinction between enplanements that would enable the Board to determine whether the enplanement reported by a particular carrier for a particular flight was attributable to a true passenger origination or a passenger boarding a connecting flight. Similarly, it cannot be determined from service segment data whether a passenger has deplaned because of an arrival at the destination point or because a passenger must meet a connecting flight.

In order to reach their destinations, many travelers stop at an intermediate point and change flights. Approximately 38 percent of one-way domestic passenger tickets (tickets with an origin different than the destination) included in the O & D Survey are interline or involve more than one flight of the same carrier. In a typical case, the schedules available to an Indianapolis-Birmingham passenger could involve one flight routed Indianapolis-Atlanta-Miami and another flight routed Washington-Atlanta-Birmingham-New Orleans. An Indianapolis-Birmingham passneger routed through Atlanta would not appear as such in service segment data but rather as two separate passengers, one from Indianapolis to Atlanta and another from Atlanta to Birmingham. The service segment data cannot recognize that the two passengers are actually one passenger using a connecting routing.[1] Without O & D data the Board would have no way to match the true origin with the true destination of this passenger.

In determinations of essential air service levels, the Board has announced an intention to consider O & D data in making hub selections.[2] Because O & D data can be used to identify origins and destinations of air travelers, it is an effective means to relate points of particular interest to travelers originating at given points and avoids total reliance on traffic data between pairs of points the carriers have chosen to serve. O & D data are also useful in subsidy need determinations under Section 419 of the Act.

In bilateral negotiations, O & D data are used to determine the true O & D of travelers in international markets. It is also used in resolving day to day problems in a particular area and plays an important role in the formal hearing process.

O & D data have also been used extensively in environmental impact assessments in the *Oakland Service Case* (Docket 30699), in the Orange County Airport Case [3] and in rate cases, including *The Hawaii Common Fares Investigation* (Docket 35107).

The O & D Survey is also the only way the Board can determine the dollar amounts that are actually being paid for the transportation that is being provided. Using these data, the Board's staff can estimate what percentage of passengers are traveling at various fare levels. Tariff filings cannot be used to determine this because they indicate only the fares that are being offered to the public; not the fares that are being chosen by passengers.

In looking forward to the Report to Congress on the Effects of Deregulation that is required by Section 1601(c) of the Act, the Passenger Origin-Destination Survey will provide essential input for a complete report. Coupled with historical data that is already available within the O & D Survey, and from other sources, it will provide answers to many of the questions Congress will surely want to know about deregulation, among them the crucial questions of how well scheduled passenger service offered by the airlines fits public travel patterns and what impact greater competition has had on the price the public is paying for air transportation.

The data needed to carry out these regulatory functions cannot be alternatively obtained from *Official Airline Guide* data, international data prepared by the Immigration and Naturalization Service or other sources. The OAG provides no input on the true origins and destinations or the fares actually being paid by travelers and INS data only contains gateway-to-gateway information.

Beyond our own internal uses, we found that O & D data are also used extensively by carriers and organizations outside the Board for Board proceedings, publications of interest to the traveling public, airport and airways planning, studies relating to aircraft acquisitions and dispositions and market assessments and development.

The Need for a Reporting Requirement

Despite the usefulness of the O & D Survey, it now faces an uncertain future unless all eligible carriers become Survey participants.

As a result of the Airline Deregulation Act, U.S. passenger air transportation

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[1] Although a domestic travel plan was used in this example, the same principles apply in matching passenger origins and destinations in international travel. True origins and destinations of travelers cannot be identified from service segment data.

[2] Part 398—*Guidelines for Individual Determinations of Essential Air Transportation*, adopted August 31, 1979 (§ 398.2(c)(1)(iii)).

[3] *Environmental Negative Declaration and Environmental Assessment and Announcement of Preparation of Environmental Impact Statement for Orange County Airport; Orange County, California* (Dockets 31574, 33227; 35372; 33355; 34303; 33710; 34767).

services have become more competitive with the addition of many new entrants. We can foresee two things developing from this environment. First, we foresee a situation where the current voluntary participation system could leave the Board with less than complete data if new entrants chose not to participate. Second, we can foresee where the carriers now voluntarily participating in the Survey would be disinclined to continue providing information that could place them at a competitive disadvantage with nonparticipating carriers. Less than complete data would have a serious negative effect on many of the Board's most important regulatory programs. Determinations of Essential Service, environmental impact assessments, international negotiations and carrier selection porcesses would all be adversely affected, as would the Report to Congress on the Effects of Deregulation.

Recent contacts with air carriers have not altered that outlook. On July 30, 1979, the Chairman of the Civil Aeronautics Board sent letters to the Chief Executive Officer of each U.S. certificated route air carrier participating in the Survey and to each U.S. certificated route air carrier not participating in the Survey (helicopter, all-cargo and wholly intra-Alaska carriers were excluded). In essence, the letter to participating carriers requested a reconfirmation of their commitment to the Survey and the letter to nonparticipating carriers urged them to become participants.

Despite the willingness of an overwhelming majority of existing carriers to continue, and of new entrants to begin participating in the Survey, this willingness is not universal, and the Survey's completeness remains in doubt.

Because the O & D Survey is too important to the Board to be left to the uncertainties that appear to lie before it, we are proposing now to make participation in the O & D Survey mandatory. It would be incorporated into Part 241 of the Economic Regulations to safeguard it, at least until December 31, 1983, against the changes in the industry environment that now threaten its continued existence.

While we can foresee that there will be a need to continue the O & D Survey beyond Sunset, certainly in the international area, we believe that the need for the Survey and its structures should be reexamined in 1983. This reexamination, we believe, should be undertaken with a view toward restructuring the system in view of then future needs, and exploring the transferral of data collection and processing responsibilities to other Federal agencies or organizations that have a strong interest in the Survey's continued existence, if this transferral has not already occurred.

Solicitation of Comments on Reporting Alternatives

In addition to making the reporting requirements mandatory, we have an ongoing effort to streamline the Survey to reduce the reporting and processing burdens associated with it. In this proceeding we are soliciting comments on several alternatives we are exploring to bring about a more streamlined system. Among them are:

1. A reduction in the sample size from 10 percent to 5 percent or 1 percent. While this would reduce the volume of data reported and processing burdens and the reliability of the data, some carriers have indicated that this would be desirable.

2. A limitation in the number of coupons on tickets included in the Survey. The present Survey provides for recording ticketed itineraries up to a maximum of 23 flight-coupon legs. We will be exploring the possibility of reducing the length of the itineraries to be reported to a maximum of from six to eight flight coupon stages. This would reduce the complexity of the data to be handled with a loss of less than .1 percent of the data.

3. A reduction in the number of tickets for which the dollar value is to be reported by excluding the dollar value for certain types of ticketed itineraries [4] as well as to reduce the sample size for this data element, *e.g.* report dollar values only for every other reported ticket.

4. The establishment of a two-tiered reporting system that would impose a lesser burden on the smaller carriers by having them exclude interline tickets from their sample and having these tickets reported by larger carriers.

We are soliciting comments on each of these alternatives. We are trying to find the most cost efficient way to reduce the burdens on both the air carriers and the Board while still preserving its usefulness. Comments should provide estimates of employee-hour and dollar costs associated with each alternative.

Technical Aspects of the Survey

Over the years, the technical aspects of the Survey data collection and reporting requirements have been administered from an independent body of instructions communicated to the carriers entitled, *Instructions to Air Carriers for Collection and Reporting Passenger Origin-Destination Survey Statistics* and *Passenger Origin-Destination Directives.* These instructions and amendments of them are routinely transmitted to all carriers participating in the Survey. Because of its proven efficiency, they will continue to be transmitted to all participating carriers as well as new entrants who would be required to participate in the Survey under the proposed rule.

By a separate order issued at the same time as this notice, we are authorizing continued informal contacts between Board employees and carrier representatives on the administration of the Survey in accordance with § 300.2(a) of Part 300, *Rules of Conduct in Board Proceedings.*

Proposed Rule

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 241, *Uniform System of Accounts and Reports for Certificated Air Carriers,* as follows:

In Section 19, Operating Statistics Classifications new Sections 197–7 and 19–8 would be added, to read:

Section 19–7 Passenger Origin-Destination Survey.

(a) All U.S. certificated route air carriers conducting scheduled passenger operations (except helicopter and wholly intra-Alaska carriers) shall participate in a Passenger Origin-Destination Survey covering domestic and international operations, as described in the instruction manual entitled, *Instructions to Air Carriers for Collection and Reporting Passenger Origin-Destination Survey Statistics* and *Passenger Origin-Destination Directives* issued by the Board's staff.

(b) Those air carriers having access to automatic data processing services shall utilize either magnetic computer tape or punched cards for transmitting the prescribed data to the Board. Those carriers not having access to automatic data processing equipment shall utilize CAB Form 2787 in typewritten form.

(c) Flight coupons shall be selected for reporting on a sample basis in accordance with the instruction manual and the directives mentioned in paragraph (a) of the section. The data to be recorded and submitted from reportable flight coupons, as stipulated in the instruction manual and directives, shall include the following data elements: point of origin, carrier on each flight-coupon stage, fare-basis on each flight-coupon stage, points of stopover or connection (interline and intraline), point of destination, number of passengers, total dollar value of ticket

[4] Tickets with open-jaw or multi-break itineraries and surface movements would be excluded.

(fare plus tax) and interchange information.

(d) Similar international Passenger Origin-Destination Survey data covering the operations of the non-U.S. carriers are not generally available to the Civil Aeronautics Board, the U.S. carriers, or U.S. interests. Therefore, because of the damaging competitive impact on U.S. flag carriers and the adverse effect upon the public interest that would result from unilateral disclosure of the U.S. survey data, the Civil Aeronautics Board has determined its policy to be that the international data in the Passenger Origin-Destination Survey shall be disclosed only as follows:

(1) To an air carrier directly participating in, and contributing input data to, the Survey, or to a legal or consulting firm or other organization designated by an air carrier to use on its behalf O & D data in connection with a specific assignment by such carrier.

(2) To parties to any proceeding before the Board to the extent that such data are relevant and material to the issues in the proceeding upon a determination to this effect by the administrative law judge assigned to the case or by the Board. Any data to which access is granted pursuant to this section may be introduced into evidence subject to the normal rules of admissability of evidence.

(3) To agencies and other components of the U.S. Government.

(4) To other persons upon a showing that the release of the data will serve specifically identified needs of U.S. users which are consistent with U.S. interests.

(5) To foreign governments and foreign users as provided in formal reciprocal arrangements between the foreign and U.S. governments for the exchange of comparable O & D data.

(e) The Board reserves the right to make such other disclosure of the subject data as is consistent with its regulatory functions and responsibilities.

(f) The requirements of this section will expire on January 1, 1984 unless extended by the Board.

(Sec. 204(a), 407, 1601, Federal Aviation Act of 1958, as amended, 72 Stats. 743, 766, 92 Stat. 1744, (49 U.S.C. 1324(a), 1377, and 1551))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-38206 Filed 11-21-79; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 239, 240 and 249

[Release Nos. 33-6149; 34-16345; File No. S7-808]

Proposed Amendments Regarding Exhibit Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Request for public comments on proposed amendments to forms, rules and regulation.

SUMMARY: The Securities and Exchange Commission today authorized the publication for comment of proposed amendments to Regulations S-K (17 CFR 229.20) and certain forms in order to standardize and improve the Commission's requirements relating to the filing of exhibits. The proposed amendments would delete certain exhibits formerly required to be filed, revise and make uniform the requirements relating to certain other exhibits, and, with the exception of Form S-18, consolidate all of the amended exhibit requirements in a new Regulation S-K item. Also, to facilitate the identification and location of exhibits by the public, which is particularly difficult under the existing micrographic document storage system, the Commission is proposing to amend certain rules to require an exhibit index to be included with each form or report filed, as well as a statement on the first page of each such document indicating the page on which the exhibit index can be found.

DATE: Comments should be submitted on or before December 31, 1979.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-808. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: William H. Carter, (202-272-2604), Peter J. Romeo (202-272-2573), or Joseph G. Connolly, Jr., (202-272-2696), Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is inviting public comment on proposals to amend the exhibit filing requirements currently set forth in certain registration and reporting forms under the Securities Act of 1933 ("1933 Act") (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 ("1934 Act") (15 U.S.C. 78a et seq.) and to amend certain related rules under these Acts. The proposed changes, as described herein, would relax certain existing exhibit requirements and make certain others more uniform and consistent.

Background

As part of its continuing effort to improve the quality of disclosure, the Commission's Division of Corporation Finance has reexamined the exhibit filing requirements for the registration and reporting forms promulgated under the 1933 and 1934 Acts. As a result of this reexamination, it was determined that the present requirements often result in documents being filed that are of limited interest both to the public and the Commission. Moreover, in many instances the requirements are inconsistent. In recognition of the foregoing, the Commission is proposing certain changes for the dual purpose of making the requirements more relevant to investors and reducing the burdens which they impose on registrants.

The proposed revisions would affect the forms most frequently used by registrants under the 1933 and 1934 Acts. Not only would the proposed changes alter the substance of some of the exhibit requirements for such forms, but they also would change the location of such requirements by consolidating them in a single place. Specifically, the revisions being proposed herein would:

(1) Eliminate certain exhibits believed to be of limited interest to the public and the Commission, add for purposes of consistency some exhibits inadvertently omitted from certain forms in the past, and modify certain other exhibit requirements in light of current considerations;

(2) Delete from certain frequently used forms, with the exception of Form S-18, the specific exhibit requirements presently contained therein and substitute a reference to a new item in Regulation S-K relating to exhibits;

(3) Add to Regulation S-K an item consolidating all exhibit requirements for the above-mentioned forms other than Form S-18; and

(4) Amend certain rules under the 1933 and 1934 Acts to require an exhibit index to be included with all of the registration and reporting forms filed under such Acts, as well as a statement on the first page of each such form indicating the page on which the exhibit index can be found.

The Commission has determined to confine its proposals for amending the exhibit requirements under the 1933 and 1934 Acts to only those forms which are most frequently used. These are Forms S–1 (17 CFR 239.11), S–2 (17 CFR 230.12), S–7 (17 CFR 239.26), S–8 (17 CFR 239.16b), S–11 (17 CFR 239.18), S–14 (17 CFR 239.23), S–16 (17 CFR 239.27), and S–18 (17 CFR 239.28) under the 1933 Act and Forms 10 (17 CFR 249.210), 8–K (17 CFR 249.308), 10–Q (17 CFR 249.308a), 10–K (17 CFR 249.310), and 11–K (17 CFR 249.311), under the 1934 Act. This approach has been adopted primarily because the benefits to be gained by amending the less frequently used forms would be minimal, since they amount to less than 5% of all filings under the above Acts. Moreover, the possibility exists that some or all of these other forms may be eliminated in the future [1] and the Commission believes it would be best to forego making any changes in them until their ultimate status has been determined. Accordingly, the exhibit filing requirements for these other forms [2] will continue to be found in the forms themselves.

It should also be noted that the Commission is presently considering the adoption of a new reporting form, Form 20–F, which would constitute both the registration and the annual report form applicable to foreign private issuers under the 1934 Act and would replace existing Forms 20 (17 CFR 249.310) and 20–K (17 CFR 249.320). It is not possible at this time to incorporate the exhibit changes proposed in this release into the new Form 20–F, but it is contemplated that such changes may be made part of that Form at some future time. Accordingly, comments are hereby expressly requested on the appropriateness of these proposed exhibit changes as they relate to registration and annual report forms filed on Form 20–F by foreign private issuers under the 1934 Act.

With respect to Form S–18, the Commission has determined to adopt all the substantive changes to the exhibit requirements outlined in this release, but instead of inserting a reference to Regulation S–K in Form S–18, the substantive changes are directly incorporated into the "Instructions as to Exhibits" section of the Form. The basis for this distinction is the view that Form S–18 represents a "simplified" registration form and as such the Commission believes that it is appropriate to avoid cross-references to other Regulations wherever possible.

A. Elimination, Modification and Addition of Exhibits

1. *Elimination of Exhibits.* The Commission proposes to eliminate the following exhibits, which are presently required by the forms indicated in parentheses:

(1) Syndication agreements (S–1, S–2, S–7, S–11, S–14, S–16, and S–18);

(2) Selling group agreements (S–1, S–2, S–7, S–11, S–14, S–16, and S–18);

(3) Specimen certificates (S–1, S–2, S–7, S–11, S–14, S–16, S–18, Form 10 and Form 20);

Plans relating to options, warrants and rights provided they are not deemed to be material contracts (S–1, S–8, S–11, S–14, S–18, Form 10 and Form 10–K);

(5) Pension, retirement and deferred compensation plans (S–1 and S–18);

(6) Indemnification contracts or arrangements (S–1, S–7, S–11 and S–14);

(7) Profit sharing or bonus plans provided they are not deemed to be material contracts (S–8, S–11, S–14, S–18 and Form 10);

(8) Agreements relating to registration rights (S–14);

(9) Summaries of the plan and related written communications (S–8 and S–18);

(10) Waivers or undertakings required by Rule 460 (17 CFR 230.460) (S–8);

(11) List of subsidiaries participating in the plan (S–8);

(12) Form of proxy (S–14);[3] and

(13) Text of any proposal or any published report regarding matters submitted to a vote of security holders (Form 10–K and Form 10–Q).

2. *Modification of Exhibits.* The Commission is also proposing the following substantive revisions to two existing exhibits requirements, i.e., : (1) Material contacts, and (2) amendments and modifications of previously filed documents:

(i) *Material Contracts.* The definition of the term "material contract" used for exhibit filing purposes is proposed to be revised in a number of respects. The purpose of the proposed revisions is to reduce the number of contracts required to be filed without materially impairing investor information and protection.

First, the requirement that any contract specifically referred to in the registration statement or report is deemed to be a material contract and thus filed as an exhibit to said filing has been deleted. The Commission has always encouraged registrants, in addition to specifically required disclosure, to discuss in their filings whatever additional information they felt was appropriate in describing the registrant's business or operations. As a result, many contracts have been referred to in such disclosure which are, of themselves, not material to the registrant. The Commission has determined that under such circumstances the mere mention of such contracts should not impose an exhibit filing requirement. Accordingly, the Commission proposes to delete this reference from the definition and require the filing of such contracts only if mandated by the other provisions of the definition.

Second, with regard to paragraph (b) of the definition relating to contracts not made in the ordinary course of business, the Commission proposes to revise the existing percentage test in subpart 3 which relates to the acquisition or sale of certain assets for a consideration exceeding a set percentage. As proposed, the 10% standard used therein would amount to a reduction from the 15% threshold currently utilized in the definition of material contract in Form S–1. It is, however, consistent with the 10% standard used in the Form 10 definition. The Commission's experience with the 10% standard suggests that it is a better gauge for determining which contracts are material. Because of the importance of this standard, the Commission specifically invites public comment on the advisability of using it under the 1933 and 1934 Acts.

Finally, paragraph (c) of the definition has been revised to reduce the number of remunerative plans or arrangements which must be filed. Presently, all management contracts, bonus or profit sharing plans or arrangements must be filed as exhibits under the material contract provision. Subpart 4 of proposed paragraph (c), however, would require the filing of only those remunerative arrangements which are not generally available to all employees and which in operation do not provide for the same method of allocation of benefits between management and non-management participants.

(ii) *Previously Unfiled Documents.* The Commission is also proposing to revise the exhibit requirement relating to amendments or modifications of documents previously filed pursuant to

[1] As part of its program for simplification of the reporting requirements, the Division of Corporation Finance intends to conduct a study of such less frequently used forms in order to determine the feasibility of their elimination or amendment.

[2] The less frequently used forms not affected by the proposed amendments are Forms S–3 (17 CFR 239.13), S–10 (17 CFR 239.17), S–12 (17 CFR 239.19), and S–13 (17 CFR 239.25) under the 1933 Act and Forms 14 (17 CFR 249.214), 14–K (17 CFR 249.314), 16 (17 CFR 249.216), 16–K (17 CFR 249.316), 18 (17 CFR 249.218), 18–K (17 CFR 249.318), 19 (17 CFR 249.219), 19–K (17 CFR 249.319), 20 (17 CFR 249.310), and 20–K (17 CFR 249.320) under the 1934 Act.

[3] Although the form of proxy will no longer be required to be filed as an exhibit to the S–14 registration statement, the requirement that it be filed with the staff with both the preliminary and definitive proxy material would be retained.

Forms 10–Q, 10–K or 11–K. The requirement, as amended, would be captioned "Previously Unfiled Documents." It would require the filing of all documents orginally required by a registration statement or report but not previously filed, as well as any amendments or modifications to documents already on file with the Commission. This proposal is a consolidation of several existing exhibit requirements in the above referenced forms and would not impose any new filing requirements upon registrants except that the revised requirement would be operative on a quarterly basis, rather than on the annual basis used in the past.

3. *Additional Exhibits.* In connection with its reexamination of the exhibit filing requirements, the Commission has become aware of the fact that the requirements for certain related forms are inconsistent in the sense that certain items are required in some forms but not in others, even though all such forms deal essentially with the same disclosure issues. To cure this inconsistency, the Commission proposes to require the following documents to be filed as exhibits to the forms listed in parentheses: (1) Instruments defining the rights of security holders, including indentures, (S–2); (2) opinion re tax matters (S–1, S–14 and S–18); (3) voting trust agreements (S–2); and (4) plans of acquisition, reorganization, arrangement, liquidation or succession (S–7 and S–16).

B. Revision of Forms and Regulation S–K

In the interest of clarity, and in order to make the exhibit requirements for the most frequently used forms under the 1933 and 1934 Acts as uniform as possible, the Commission proposes to make two major changes in the manner in which such requirments are set forth. First, with the exception of Form S–18, it intends to delete from each such form the specific exhibit requirements contained therein. In lieu thereof, it proposes to substitute a single reference to Regulation S–K. Second, the Commission intends to create a new item in Regulation S–K containing all of the exhibit requirements for the relevant forms being amended.

C. Inclusion of Exhibit Item in Regulation S–K

Regulation S–K is a uniform disclosure regulation which specifies information required to be disclosed in various registration statements, periodic reports and proxy and information statements filed with the Commission under the 1933 and 1934 Acts. The purpose of Regulation S–K is to facilitate compliance with the disclosure requirements of the above Acts by consolidating in a single regulation disclosure provisions that are common to various forms and reports that are frequently filed.

To date, Regulation S–K has dealt solely with the requirements applicable to textual disclosures in the Commission's forms and reports under the 1933 and 1934 Acts. As noted in the preceding section, the Commission proposes to expand the scope of the regulation by adding a new Item 8 thereto setting forth specific exhibit requirements applicable to certain forms.

The format of the proposed new Item 8 would consist of two parts. First, two tables (one each for the 1933 and 1934 Acts) would be set forth at the beginning of the item along with a set of instructions pertaining to them. The tables would list each of the forms being covered and the exhibits required to be filed with each such form. Second, there would be a separate section containing a narrative description of each exhibit listed in the table.

The Commission recognizes that the format proposed to be employed would represent a significant departure from its past practice of setting forth specific exhibit requirements in each individual form. It believes, however, that the change is appropriate for two reasons. First, it will permit the Commission to eliminate inconsistent requirements relating to specific exhibits and adopt uniform provisions relating to each such exhibit. Second, it will assist registrants in complying with the exhibit requirements by simplifying and consolidating requirements.

D. Proposed Amendments to Certain Rules

In connection with the proposed amendment to Regulation S–K, the Commission also is proposing to amend Rule 403 (17 CFR 230.403) under the 1933 Act and Rule 0–3 (17 CFR 240.0–3) under the 1934 Act. Both rules set forth requirements relating to the filing of documents with the Commission. Each such rule would be amended to add a new paragraph thereto requiring that the following be included with each registration statement or report being filed: (1) An index listing each exhibit filed with the registration statement or report and the page under the Commission's sequential numbering system where such exhibit can be found; and (2) a statement on the cover page of the filing indicating the page under the sequential numbering system on which the exhibit index is located.

The purpose of the proposed rule changes is to assist readers of the above filings in identifying and locating exhibits. Under the present micrographic system used by the Commission to store documents, it is difficult to determine which exhibits are filed with registration statements and periodic reports. Further, in order to locate specific exhibits, it is necessary in many cases to review almost every page filed with a statement or report before the exhibits can be found. The Commission believes that the changes described above would substantially ease the difficulties in identification and location inherent in the present system.

The Commission recognizes that the above changes would impose some additional burdens on registrants. It believes, however, that these burdens would be minimal, particularly when one considers that an exhibit list (albeit one that does not list the page location of each exhibit) currently is required by virtually all registration and reporting forms. Moreover, the listing in the index of the pages on which the various exhibits can be found would be permitted to be made in handwritten or other legible form, thus reducing the time and expense required to prepare and complete the index. In view of the significant benefits to the public that would result from the proposed changes, the Commission believes that there is sufficient justification for proposing the adoption of the new requirements.

E. Text of the Proposed Amendments

1. 17 CFR Part 229 is proposed to be amended by adding a new Item 8 to Regulation S–K.

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S–K.

* * * * *

Item 8. Exhibits. (a) Subject to the rules regarding incorporation by reference, the following exhibits shall be filed, where applicable, as a part of the registration statement or report. For convenient reference, each exhibit should be listed in the exhibit index according to the number assigned to it in the applicable table set forth below. The exhibit index should immediately precede the exhibits filed with such document and should indicate the page number in the sequential numbering system where such exhibit can be found. Where exhibits are incorporated by reference, this fact should be noted in the exhibit index referred to in the preceding sentence. For a description of each of the exhibits included in the following tables, see paragraph (b) of this Item.

This Item applies only to the forms specified below. With regard to forms not listed in the tables, reference should be made

to the appropriate form for the specific exhibit filing requirements applicable thereto.

Tables

Instructions

(1) Each table indicates those documents which must be filed as exhibits to the respective forms listed. Only copies, rather than originals, need be filed of each document listed;

(2) The "X" designation indicates the documents which are required to be filed with each form; and

(3) The number used in the far left column of each table refers to the appropriate subsection in paragraph (b) where a description of the exhibit can be found. Whenever necessary, alphabetical or numerical subparts may be used.

Table I.—*Securities Act of 1933—Frequently Used Forms*

	S-1	S-2	S-7	S-8	S-11	S-14	S-16
(1) Underwriting Agreement	X	X	X		X	X	X
(2) Plan of acquisition, reorganization arrangement, liquidation or succession	X		X		X	X	X
(3) Charter and by-laws	X	X			X	X	
(4) Instruments defining the rights of security holders	X	X	X	X	X	X	X
(5) Opinion re legality	X	X	X	X	X	X	X
(6) Opinion re discount on capital shares	X				X	X	
(7) Opinion re liquidation preference	X				X	X	
(8) Opinion re tax matters	X			X	X	X	
(9) Voting trust agreement	X	X			X	X	
(10) Material contracts	X	X	X		X	X	X
(11) Statement re computation of per share earnings	X		X		X	X	
(12) Statements re computation of ratios	X		X		X	X	
(13) Annual report to security holders				X			
(14) Material foreign patents	X	X				X	
(15) Instruments defining the rights of participating employees				X			

Table II.—*Securities Exchange Act of 1934—Frequently Used Forms*

	Form 10	8-K	10-Q	10-K	11-K
(2) Plan of acquisition, reorganization, arrangement, liquidation or succession	X	X			
(3) Charter and by-laws	X				
(4) Instruments defining the rights of security holders, including indentures	X		X	X	
(6) Opinion re discount on capital shares	X				
(7) Opinion re liquidation preference	X				
(9) Voting trust agreements	X				
(10) Material contracts	X			X	
(11) Statement re computation of per share earnings	X		X	X	
(12) Statements re computation of ratios	X			X	
(14) Material foreign patents	X				
(16) Letter re change in certifying accountant		X			
(17) Letter re director resignation		X			
(18) Letter re change in accounting principles			X	X	
(19) Previously unfiled documents			X	X	
(20) Financial statements furnished to security holders			X		

(b) *Description of Exhibits.* Set forth below is a description of each document listed in the foregoing tables for which copies should be filed, where appropriate.

(1) *Underwriting Agreement*—Each underwriting contract or agreement with a principal underwriter or letter pursuant to which the securities being registered are to be distributed; if the terms of such documents have not been determined, the proposed forms thereof.

(2) *Plan of acquisition, reorganization, arrangement, liquidation, or succession*—Any material plan of acquisition, disposition, reorganization, readjustment, succession, liquidation or arrangement and any amendments thereto described in the statement or report.

(3) *Charter and by-laws*—The charter and by-laws of the issuer or instruments corresponding thereto as presently in effect and any amendments thereto.

(4) *Instruments defining the rights of security holders*—(a) All instruments defining the rights of (1) holders of the equity or debt securities being registered; (2) holders of long-term debt of the registrant and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed; and (3) holders of a new class of securities or indebtedness, the creation of which was required to be disclosed in a periodic report.

(b) Where the instrument defines the rights of holders of long-term debt of the registrant and all its subsidiaries for which consolidated or unconsolidated financial statements are required to be filed, there need not be filed (1) any instrument with respect to long-term debt not being registered if the total amount of securities authorized thereunder does not exceed 5% of the total assets of the registrant and its subsidiaries on a consolidated basis and if there is filed an agreement to furnish a copy of such agreement to the Commission upon request; (2) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the registrant of the securities being registered; or (3) copies of instruments evidencing scrip certificates for fractions of shares.

(c) If any of the securities being registered are, or will be, issued under an indenture to be qualified under the Trust Indenture Act of 1939, the copy of such indenture which is filed as an exhibit shall include or be accompanied by (1) a reasonably itemized and informative table of contents; and (2) a cross-reference sheet showing the location in the indenture of the provisions inserted pursuant to Sections 310 through 318(a) inclusive of the Trust Indenture Act of 1939.

(5) *Opinion re legality*—(a) An opinion of counsel, as to the legality of the securities being registered, indicating whether they will, when sold, be legally issued, fully paid and non-assessable, and, if debt securities, whether they will be binding obligations of the registrant.

(b) If the securities being registered are issued under a plan and the plan is subject to the requirements of ERISA either (i) an opinion of counsel which confirms compliance with the provisions of the written documents constituting the plan with the requirements of that Act pertaining to such provisions; or (ii) a copy of the Internal Revenue Service determination letter that the plan is qualified under Section 401 of the Internal Revenue Code; or (iii) an opinion of counsel attaching a copy of the determination letter, that any amended provisions of the plan adopted subsequent to such determination comply with the requirements of that Act pertaining to such provisions.

(6) *Opinion re discount on capital shares*—If any discount on capital shares is shown as a deduction from capital shares on the most recent balance sheet being filed for the registrant, there shall be filed a statement of the circumstances under which such discount arose and an opinion of counsel as to the legality of the issuance of the shares to which such discount relates. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which in the opinion of counsel are controlling.

(7) *Opinion re liquidation preference*—If the registrant has any shares the preference of which upon involuntary liquidation exceeds the par or stated value thereof, there shall be filed an opinion of counsel as to whether there are any restrictions upon surplus by reason of such excess and also as to any remedies available to security holders before or after payment of any dividened that would reduce surplus to an amount less than the amount of such excess. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which, in the opinion of counsel, are controlling.

(8) *Opinion re tax matters*—An opinion of counsel or, in lieu thereof, a revenue ruling from the Internal Revenue Service, supporting the tax matters and consequences as to the registrant's activities or proposed activities described in the filing when such tax matters are material to the transaction for which the registration statement is being filed.

(9) *Voting trust agreement*—Any voting trust agreements and amendments thereto.

(10) *Material contracts*—(a) Every contract not made in the ordinary course of business which is material to the registrant and is to be performed in whole or in part at or after the filing of the registration statement or was entered into not more than two years before such filing. Only contracts need to be filed as to which the registrant or subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment or in which the registrant or such subsidiary has a beneficial interest.

(b) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it is made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(1) Any contract to which directors, officers, promoters, voting trustees, security holders named in the registration statement or report, or underwriters are parties except where the contract merely involves the purchase or sale of current assets having a determinable market price, at such market price;

(2) Any contract upon which the registrant's business is substantially dependent, as in the case of continuing contracts to sell the major part of registrant's products or services or to purchase the major part of registrant's requirements of goods, services or raw materials or any franchise or license or other agreement to use a patent, formula, trade secret, process or trade name upon which registrant's business depends to a material extent;

(3) Any contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 10% of all such assets of the registrant and its subsidiaries; or

(4) Any lease under which a significant part of the property described in the registration statement or report is held by the registrant.

(c) Any management contract or any remunerative plan, contract or arrangement including but not limited to plans relating to options, warrants or rights, pension, retirement or deferred compensation or bonus, incentive or profit sharing (or if not set forth in any formal document, a written description thereof) shall be deemed material and shall be filed except the following:

(1) Ordinary purchase and sales agency agreements.

(2) Agreements with managers of stores in a chain organization or similar organization.

(3) Contracts providing for labor or salesmen's bonuses or payments to a class of security holders, as such.

(4) Any remunerative plan, contract or arrangement which pursuant to its terms is available to employees generally and which in operation provides for the same method of allocation of benefits between management and nonmanagement participants.

(11) *Statement re computation of per share earnings*—A statement setting forth in reasonable detail the computation of per share earnings, unless the computation can be clearly determined from the material contained in the registration statement or report. (See 1933 Act Release No. 33-5133 (February 18, 1971) (36 FR 4483)).

(12) *Statements re computation of ratios*—The registrant shall file the following statements concerning computations of ratios where applicable:

(a) If debt securities have been or are being registered, the registrant shall show in tabular form for each fiscal year or other period the ratio of earnings to fixed charges. If appropriate, the ratio of earnings to fixed charges for such periods shall also be shown on a total enterprise basis. If debt securities are being registered under the 1933 Act, there shall also be shown for the most recent fiscal year or twelve months a pro forma ratio of earnings to fixed charges, adjusted to give effect to (i) the issuance of the securities being registered; (ii) any issuance, retirement or redemption of securities during such period; or (iii) any issuance, retirement or redemption of securities after, or presently proposed for one year after, such period.

(b) Earnings shall be computed after all operating and income deductions except fixed charges and taxes based on income or profits and after eliminating undistributed income of unconsolidated subsidiaries and 50% or less owned persons. In the case of utilities, interest credits charged to construction shall be added to gross income and not deducted from interest.

(c) The term "fixed charges" shall mean (i) interest and amortization of debt discount and expense and premium on all indebtedness; (ii) such portion of rentals as can be demonstrated to be representative of the interest factor in the particular case; and (iii) in the event consolidated figures are used, preferred stock dividend requirements of consolidated subsidiaries, excluding in all instances items eliminated in consolidation.

(d) If preferred stock is being registered, the registrant shall show, in tabular form, for each fiscal year or other period the ratio of earnings to combined fixed charges and preferred dividend requirements.

(13) *Annual report to security holders*—The issuer's annual report to security holders for its last fiscal year incorporated by reference in the filing. Such report, except for those portions thereof which are incorporated by reference in the filing, is to be furnished for the information of the Commission and is not to be deemed "filed" as part of the filing. If the financial statements in the report have been incorporated by reference in the filing, the accountant's certificate shall be manually signed in one copy.

(14) *Material foreign patents*—Each material foreign patent for an invention not covered by a United States patent. If the filing is a registration statement and if a substantial part of the securities to be offered or if the proceeds therefrom have been or are to be used for the particular purposes of acquiring, developing or exploiting one or more material patents or patent rights, furnish a list showing the number and a brief identification of each such patent or patent right.

(15) *Instruments defining the rights of participating employees*—All constituent instruments (other than the plan itself) defining the rights of employees who participate in the plan.

(16) *Letter re change in certifying accountant*—A letter from the registrant's former independent accountant regarding its concurrence or disagreements with the statements made by the registrant in the current report concerning the resignation or dismissal as the registrant's principal accountant.

(17) *Letter re director resignation*—A letter from a former director which sets forth a description of the disagreement with the registrant that led to the director's resignation or refusal to stand for re-election and which requests that the matter be disclosed.

(18) *Letter re change in accounting principles*—Unless previously filed, a letter from the registrant's independent accountant indicating whether any change in accounting principles or practices followed by the registrant, or any change in the method of applying any such accounting principles or practices, which materially affected the financial statements being filed with the Commission in the report or which is reasonably certain to affect the financial statements of future fiscal years, is to an alternative principle which in his judgment is preferable. No such letter need be filed when such change is made in response to a standard adopted by the Financial Accounting Standards Board requiring such a change.

(19) *Previously unfiled documents*—All documents originally required by a registration statement or report but not previously filed, as well as any amendments or modifications to documents already on file. If such amendments or modifications are not in the English language, there should be furnished in addition a translation into English.

(20) *Financial statements furnished to security holders*—If the registrant makes available to its stockholders or otherwise publishes, within the period prescribed for filing the report, a financial statement containing the information required by this form, the information called for may be incorporated by reference to such published statement provided copies thereof are included as an exhibit to Part I of the report filed.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

2. 17 CFR 230.403 is proposed to be amended by adding a new paragraph (e):

§ 230.403 Requirements as to paper, printing, and language.

* * * * *

(e) Each registration statement shall contain an exhibit index, which should

immediately precede the exhibits filed with such registration statement. The index shall list each exhibit filed and identify by handwritten, typed, printed, or other legible form of notation, the page number in the sequential numbering system described in paragraph (d) of this section where such exhibit can be found or where it is stated that the exhibit is incorporated by reference. Further, the first page of the registration statement shall list the page in the filing where the exhibit index is located.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. 17 CFR 240.0–3 is proposed to be amended by adding a new paragraph (c):

§ 240.0–3 Filing of material with the Commission.

* * * * *

(c) Each document filed shall contain an exhibit index, which should immediately precede the exhibits filed with such document. The index shall list each exhibit filed and identify by handwritten, typed, printed, or other legible form of notation, the page number in the sequential numbering system described in paragraph (b) of this section where such exhibit can be found or where it is stated that the exhibit is incorporated by reference. Further, the first page of the document shall list the page in the filing where the exhibit index is located.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

4.a. *Form S–1.* Item 30 and the Instructions as to Exhibits of Form S–1 are proposed to be amended as follows:

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

* * * * *

Item 30. Financial statements and exhibits.

(a) * * *

(b) Exhibits, as required by Item 8 of Regulation S–K, 17 CFR 229.20.

* * * * *

Instructions as to Exhibits

[All instructions, as well as the caption "Instructions as to Exhibits," are proposed to be deleted.]

b. *Form S–2.* Item 18 and the Instruction as to Exhibits of Form S–2 are proposed to be amended as follows:

§ 239.12 Form S–2, for shares of certain corporations in the development stage.

* * * * *

Item 18. Exhibits Filed.

Exhibits, as required by Item 8 of Regulation S–K, 17 CFR 229.20.

* * * * *

Instructions as to Exhibits

[All instructions as well as the caption "Instructions as to Exhibits," are proposed to be deleted.]

* * * * *

c. *Form S–7.* Item 17 and the Instructions as to Exhibits of Form S–7 are proposed to be amended as follows:

§ 239.26 Form S–7, for registration under the Securities Act of 1933 of securities of certain issuers.

* * * * *

Item 17. Other Documents Filed as a Part of the Registration Statement.

(a) * * *

(b) Exhibits, as required by Item 8 of Regulation S–K, 17 CFR 229.20.

* * * * *

Instructions as to Exhibits

[All instructions, as well as the caption "Instructions as to Exhibits, are proposed to be deleted.]

* * * * *

d. *Form S–8.* Instructions as to Exhibits of Form S–8 are proposed to be amended as follows:

§ 239.16b Form S–8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

* * * * *

Instructions as to Exhibits

The exhibits shall be furnished in accordance with the provisions of Item 8 of Regulation S–K, 17 CFR 229.20.

e. *Form S–11.* Item 32 and the Instructions as to Exhibits of Form S–11 are proposed to be amended as follows:

§ 239.18 Form S–11, for registration under the Securities Act of 1933 of securities of certain real estate companies.

* * * * *

Item 32. Financial Statements and Exhibits.

(a) * * *

(b) The exhibits, as required by Item 8 of Regulation S–K, 17 CFR 229.30.

* * * * *

Instructions as to Exhibits

[All instructions, as well as the caption "Instructions as to Exhibits, are proposed to be deleted.]

* * * * *

f. *Form S–14.* Item 5 and the Instructions as to Exhibits of Form S–14 are proposed to be amended a follows:

§ 239.23 Form S–14, for simplified registration procedure for securities in certain transactions under Rules 133 and 145 (17 CFR 230.133, 230.145).

* * * * *

Item 5. Exhibits Filed.

Exhibits, as required by Item 8 of Regulation S–K, 17 CFR 229.20.

* * * * *

Instructions as to Exhibits

[All instructions, as well as the caption "Instructions as to Exhibits," are proposed to be deleted.]

g. *Form S–16.* Item 13 and the Instructions as to Exhibits of Form S–16 are amended as follows:

§ 239.27 Form S–16, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

* * * * *

Item 13. List of Exhibits.

Exhibits, as required by Item 8 of Regulation S–K, 17 CFR 229.20.

* * * * *

Instructions as to Exhibits

[All instructions, as well as the caption "Instructions as to Exhibits," are proposed to be deleted.]

h. *Form S–18.* Instructions as to Exhibits of Form S–18 are proposed to be amended as follows:

§ 239.28 Form S–18, optional form for the registration of securities to be sold to the public by the issuer for an aggregate cash price not to exceed $5,000,000.

* * * * *

Instructions as to Exhibits

Subject to the rules regarding incorporation by reference, the following exhibits shall be filed as a part of the registration statement. Exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for by Item 20.

(1) *Underwriting agreement*—Each underwriting contract or agreement with a principal underwriter or letter pursuant to which the securities being registered are to be distributed; if the terms of such documents have not been determined, the proposed forms thereof.

(2) *Charter and by-laws*—The charter and by-laws of the issuer or instruments corresponding thereto as presently in effect and any amendments thereto.

(3) *Instruments defining the rights of security holders*—(a) All instruments defining the rights of (1) holders of the equity or debt securities being registered; (2) holders of long-term debt of the registrant and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed; and (3) holders of a new class of securities or indebtedness, the creation of which was required to be disclosed in a periodic report.

(b) Where the instrument defines the rights of holders of long-term debt of the registrant and all its subsidiaries for which consolidated or unconsolidated financial statements are required to be filed, there

need not be filed (1) any instrument with respect to long-term debt not being registered if the total amount of securities authorized thereunder does not exceed 5% of the total assets of the registrant and its subsidiaries on a consolidated basis and if there is filed an agreement to furnish a copy of such agreement to the Commission upon request; (2) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the registrant of the securities being registered; or (3) copies of instruments evidencing scrip certificates for fractions of shares.

(c) If any of the securities being registered are, or will be, issued under an indenture to be qualified under the Trust Indenture Act of 1939, the copy of such indenture which is filed as an exhibit shall include or be accompanied by (1) a reasonably itemized and informative table of contents; and (2) a cross-reference sheet showing the location in the indenture of the provisions inserted pursuant to Sections 310 through 318(a) inclusive of the Trust Indenture Act of 1939.

(4) *Opinion re legality*—

(a) An opinion of counsel, as to the legality of the securities being registered, indicating whether they will, when sold, be legally issued, fully paid and non-assessable, and, if debt securities, whether they will be binding obligations of the registrant.

(b) If the securities being registered are issued under a plan and the plan is subject to the requirements of ERISA either (i) an opinion of counsel which confirms compliance with the provisions of the written documents constituting the plan with the requirements of that Act pertaining to such provisions; or (ii) a copy of the Internal Revenue Service determination letter that the plan is qualified under Section 401 of the Internal Revenue Code; or (iii) an opinion of counsel attaching a copy of the determination letter, that any amended provisions of the plan adopted subsequent to such determination comply with the requirements of that Act pertaining to such provisions.

(5) *Opinion re discount on capital shares*—If any discount on capital shares is shown as a deduction from capital shares on the most recent balance sheet being filed for the registrant, there shall be filed a statement of the circumstances under which such discount arose and an opinion of counsel as to the legality of the issuance of the shares to which such discount relates. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which in the opinion of counsel are controlling.

(6) *Opinion re liquidation preference*—If the registrant has any shares the preference of which upon involuntary liquidation exceeds the par or stated value thereof, there shall be filed an opinion of counsel as to whether there are any restrictions upon surplus by reason of such excess and also as to any remedies available to security holders before or after payment of any dividend that would reduce surplus to an amount less than the amount of such excess. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which, in the opinion of counsel, are controlling.

(7) *Opinion re tax matters*—An opinion of counsel, or in lieu thereof, a revenue ruling from the Internal Revenue Service supporting the tax matters and consequences as to the registrant's activities or proposed activities described in the filing when such tax matters are material to the transaction for which the registration statement is being filed.

(8) *Voting trust agreement*—Any voting trust agreements and amendments thereto.

(9) *Material contracts*—(a) Every contract not made in the ordinary course of business which is material to the registrant and is to be performed in whole or in part at or after the filing of the registration statement or was entered into not more than two years before such filing. Only contracts need be filed as to which the registrant or subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment or in which the registrant or such subsidiary has a beneficial interest.

(b) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it is made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(1) Any contract to which directors, officers, promoters, voting trustees, security holders named in the registration statement or report, or underwriters are parties except where the contract merely involves the purchase or sale of current assets having a determinable market price, at such market price;

(2) Any contract upon which the registrant's business is substantially dependent, as in the case of continuing contracts to sell the major part of registrant's products or services or to purchase the major part of registrant's requirements of goods, services or raw materials or any franchise or license or other agreement to use a patent, formula, trade secret, process or trade name upon which registrant's business depends to a material extent;

(3) Any contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 10% of all such assets of the registrant and its subsidiaries; or

(4) Any lease under which a significant part of the property described in the registration statement or report is held by the registrant.

(c) Any management contract or any remunerative plan, contract or arrangement including but not limited to plans relating to options, warrants or rights, pension, retirement or deferred compensation or bonus, incentive or profit sharing (or if not set forth in any formal document, a written description thereof) shall be deemed material and shall be filed except the following:

(1) Ordinary purchase and sales agency agreements.

(2) Agreements with managers of stores in a chain organization or similar organization.

(3) Contracts providing for labor or salesmen's bonuses or payments to a class of security holders, as such.

(4) Any remunerative plan, contract or arrangement which pursuant to its terms is available to employees generally and which in operation provides for the same method of allocation of benefits between management and nonmanagement participants.

(10) *Material foreign patents*—Each material foreign patent for an invention not covered by a United States patent. If the filing is a registration statement and if a substantial part of the securities to be offered or if the proceeds therefrom have been or are to be used for the particular purposes of acquiring, developing or exploiting one or more material patents or patent rights, furnish a list showing the number and a brief identification of each such patent or patent right.

(11) *Instruments defining the rights of participating employees*—All constituent instruments (other than the plan itself) defining the rights of employees who participate in the plan.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

a. *Form 10.* Item 16 and the Instructions as to Exhibits of Form 10 are proposed to be amended as follows:

§ 249.210 Form 10, general form for registration of securities pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934.

* * * * *

Item 16. Financial Statements and Exhibits.

(a) * * *

(b) Exhibits, as required by Item 8 of Regulation S–K, 17 CFR 229.20.

* * * * *

Instructions as to Exhibits

[All instructions, as well as the caption "Instructions as to Exhibits," are proposed to be deleted.]

b. *Form 8–K.* Item 7 of the Form 8–K is proposed to be amended as follows:

§ 249.308 Form 8–K, for current reports.

* * * * *

Item 7. Financial statements.

(a) * * *

(b) Exhibits, as required by Item 8 of Regulation S–K, 17 CFR 229.20.

* * * * *

c. *Form 10–Q.* Instruction 9 and Item 9 of Form 10–Q are proposed to be amended as follows:

§ 249.308a Form 10–Q, for quarterly reports under sections 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

Instruction 9. Exhibits.

Exhibits as required by Item 8 of Regulation S–K, 17 CFR 229.20.

* * * * *

Item 9. Exhibits and Reports on Item 10–Q.

(a) Exhibits, as required by Item 8 of Regulation S–K, 17 CFR 229.20.

* * * * *

d. *Form 10–K.* Item 12 and the Instructions to Exhibits of Form 10–K are proposed to be amended as follows:

§ 249.310 Form 10–K, annual report pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

Item 12. Financial Statements, Exhibits Filed and Reports on Form 10–K.

(a) * * *

(2) Exhibits, as required by Item 8 of Regulation S–K, 17 CFR 229.20.

* * * * *

Instructions as to Exhibits

[All instructions, as well as the caption "Instructions as to Exhibits" are proposed to be deleted.]

* * * * *

e. *Form 11–K.* Item 7 and the Instructions as to Exhibits of Form 11–K are proposed to be amended as follows:

§ 249.311 Form 11–K, for annual reports of employee stock purchase, savings and similar plans pursuant to section 15(d) of the Securities Exchange Act of 1934.

* * * * *

Item 7. Financial Statements and Exhibits.

(a) * * *

(b) Exhibits, as required by Item 8 of Regulation S–K, 17 CFR 229.20.

* * * * *

Instructions as to Exhibits

[All instructions as well as the caption "Instructions as to Exhibits," are proposed to be deleted.]

Comments

Any interested person wishing to submit written comments on the proposals, as well as on other matters which might have an impact upon the proposals contained herein, is invited to do so. As noted above, commentators are also requested to consider the appropriateness of these proposed exhibit changes as they relate to registration and annual report forms of foreign private issuers under the 1934 Act, particularly the new Form 20–F now being considered for adoption by the Commission. Mindful of its responsibilities to weigh with care the costs and benefits which result from its rules and form requirements, the Commission specifically invites comments on the cost to registrants and others of these proposals.

Authority

The amendments to Rule 403 and the enumerated forms prescribed under the Securities Act of 1933 are being proposed pursuant to the authority in Sections 6, 7, 8, 10 and 19(a) of that Act. The amendments to Rule 0–3 and the enumerated forms prescribed under the Securities Exchange Act of 1934 are being proposed pursuant to the authority in Sections 12, 13, 15(d) and 23(a) of that Act. The amendments to Regulation S–K are being proposed pursuant to all of the 1933 and 1934 Act provisions referred to above.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; secs. 205, 209, 48 Stat. 906, 908; secs. 1, 3, 8, 203(a), 49 Stat. 704, 1375, 1377, 1379; sec. 2, 52 Stat. 1075; sec. 301, 54 Stat. 857; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 6, 10, 78 Stat. 88(a), 565, 569, 570; sec. 1, 79 Stat. 1051; secs. 1, 2, 82 Stat. 454; secs. 1, 2, 7, 28, 84 Stat. 1435, 1497, 1653; secs. 10, 11, 18, 89 Stat. 119, 121, 155; sec. 308, 90 Stat. 57; sec. 204, 91 Stat. 1500; (15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78o(d), 78w(a)))

By the Commission.

George A. Fitzsimmons,

Secretary.

November 16, 1979.

[FR Doc. 79–36034 Filed 11–21–79; 8:45 am]

BILLING CODE 8010–01–M

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17 CFR Part 270

[Release No. IC–10944; File No. S7–810]

Certain Investment Companies Owned by Companies Which Are Not Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission today is publishing for public comment a proposed rule under the Investment Company Act of 1940 to deem certain issuers having corporate parents as not being investment companies for purposes of the Act. The Commission has granted orders exempting, and its staff has provided no-action assurances regarding, numerous such companies. The proposed rule would obviate the necessity for the Commission's considering such matters on a case-by-case basis.

DATE: Comments must be received by January 14, 1980.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. (Refer to File No. S7–810.) All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mark J. Mackey, Esq. Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202) 272–3045.

SUPPLEMENTARY INFORMATION: The Commission today is publishing for comment proposed rule 3a–3 [17 CFR 270.3a–3] under the Investment Company Act of 1940 ("Act") [15 U.S.C. 80a–1 et seq.] to deem certain issuers having corporate parents as not investment companies for purposes of the Act. This proposed rulemaking was prepared by the Division of Investment Management's Investment Company Act Study Group in the context of its re-examination of the regulation of investment companies.

Background

Section 3(b)(3) of the Act [15 U.S.C. 80a–3(b)(3)] excludes, generally, from the definition of the term "investment company" any issuer which otherwise would be an investment company as defined in section 3(a)(3) of the Act [15 U.S.C. 80a–3(a)(3)],[1] provided that all its outstanding securities (other than short-term paper [2] and directors' qualifying shares) are owned by a company which is excluded from the definition of the term "investment company" by section 3(b)(1) or 3(b)(2) [15 U.S.C. 80a–3(b)(1) and 3(b)(2)].[3]

---

[1] Section 3(a)(3) of the Act provides: When used in this chapter, "investment company" means any issuer which—

* * * * *

Is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. As used in this section, "investment securities" includes all securities except (A) Government securities, (B) securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which are not investment companies.

[2] The term "short-term paper" is defined in section 2(a)(38) of the Act [15 U.S.C. 80a–2(a)(38)] as, generally, any note, draft, bill of exchange, or banker's acceptance payable on demand or having a maturity at the time of issuance of not exceeding nine months.

[3] Section 3(b) of the Act provides: Notwithstanding paragraph (3) of subsection (a) [of section 3], none of the following persons is an investment company within the meaning of this [Act].

(1) Any issuer primarily engaged, directly or through a wholly-owned subsidiary or subsidiaries, in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities.

(2) Any issuer which the Commission, upon application by such issuer, finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or (A) through majority-owned subsidiaries or (B) through controlled companies conducting similar types of businesses. . . .

(3) Any issuer all the outstanding securities of which (other than short-term paper and directors' qualifying shares) are directly or indirectly owned by a company excepted from the definition of investment company by paragraph (1) or (2) of this subsection.

Because of the introductory language of section 3(b), section 3(b)(3) excludes only subsidiaries which are investment companies as defined in section 3(a)(3) of the Act. See United States Foil Co., 9 SEC 22, 26 (1941). Moreover, the parent of the

Footnotes continued on next page

Section 3(b)(3) was included in the Act because of the practice, followed by some industrial companies, of effectuating their security transactions, not directly, but rather indirectly through a wholly-owned subsidiary.[4] Congress presumably determined that there was little public interest in directly regulating such a subsidiary as a public investment company under the Act because the subsidiary has no public shareholders. Moreover, it also presumably determined that the public interest in so regulating the subsidiary through its corporate parent is also not compelling when the parent itself is not, in fact, an investment company.

In its administering the Act, the Commission has noted three important regulatory concerns that have arisen in the context of applications for exemptive orders and no-action letters relating to section 3(b)(3) of the Act. First, by the terms of that section, a subsidiary, which is a small business investment company and which has issued debt obligations to the United States Small Business Administration, would not be considered totally owned by a corporate parent for purposes of section 3(b)(3). Nonetheless, the Commission and its staff have provided such companies with exemptive orders and no-action assurances, respectively, in recognition of the Small Business Administration's extensive knowledge of the subsidiary's financial business status, and its ability to protect itself with respect to such debt securities.[5] Moreover, it does not appear that the Small Business Administration's holding of such debt obligations should cause it to be considered a public investor for purposes of determining whether there is a public interest in regulating the subsidiary as a public investment company.

Second, an apparent anomaly exists regarding an issuer's status under section 3(b)(3) of the Act, depending on whether it otherwise would be considered an investment company as defined in section 3(a)(1) or as defined by section 3(a)(3).[6] By its terms, section 3(b)(3) of the Act applies solely to issuers which are defined to be investment companies under section 3(a)(3)[7] Nonetheless, the presumptive intent of section 3(b)(3)—that is, the lack of any public interest in regulating such a subsidiary as an investment company under the Act—apparently would apply regardless of whether the issuer otherwise would be defined as an investment company by section 3(a)(1) or by section 3(a)(3), provided that it has no public shareholders. Accordingly, notwithstanding the introductory language in section 3(b) of the Act limiting its application to investment companies as defined by section 3(a)(3), the Commission and its staff effectively have extended the scope of section 3(b)(3) of the Act to issuers which would have been deemed investment companies by section 3(a)(1).[8]

Third, an apparent amonaly also exists with regard to the status of a parent company of an issuer which may rely on section 3(b)(3) in determining whether it is not an investment company under the Act. By its terms, section 3(b)(3) applies only to an issuer whose parent company is excluded from the definition of investment company by section 3(b)(1) or section 3(b)(2) of the Act. These sections, in turn, are addressed only to companies which meet the *prima facie* definition of investment company in section 3(a)(3) of the Act. In contrast, an issuer whose parent company is an industrial corporation having few or no investment securities would not be excluded from the definition of investment company by section 3(b)(3), although there would be no greater apparent public interest in protecting the shareholders of such issuer's parent company under the Act. Accordingly, the Commission has granted orders exempting, and its staff has provided no-action assurances concerning, investment companies all whose outstanding securities are owned by parent companies which do not meet the statutory definition of the term "investment company" in section 3(a).[9]

Discussion

The Commission is proposing to adopt rule 3a–3 under the Act which, under specified circumstances, would deem certain corporate subsidiaries not to be investment companies for purposes of the Act. The proposed rule effectively would exempt from regulation as an investment company specified subsidiaries which may not rely on the statutory exclusion from the definition of the term "investment company" found in section 3(b)(3) solely by reason of its:

(1) Issuing debt obligations to the Small Business Administration;

(2) Being an investment company as defined under section 3(a)(1) of the Act; or

(3) Having a parent company which is not an investment company by virtue of section 3(b)(1) or section 3(b)(2), because the parent company is not, *prima facie*, an investment company under section 3(a)(3) of the Act or because the parent company would have relied on proposed rule 3a–1 [17 CFR § 270.3a–1] in lieu of applying for an order under section 3(b)(2).

Since the proposal would exempt these companies without prior Commission scrutiny, however, the Commission has included (by reference to paragraph (a) of proposed rule 3a–1) a condition to the rule requiring, generally, that the parent and its subsidiary have no more than 45 percent of their consolidated assets invested in, and receive no more than 45 percent of their consolidated net income after taxes from, investment securities. For purposes of the rule, securities of certain controlled companies through which the parent company engages in a non-investment company business would not be considered "investment securities."[10]

Footnotes continued from last page

company claiming the exclusion provided in section 3(b)(3) itself must also be an investment company within the definition of section 3(a)(3) since section 3(b)(3) only excludes companies whose parents are excluded from the definition of the term "investment company" by section 3(b)(1) and 3(b)(2). Those sections, in turn, by reason of the introductory language in section 3(b), apply only to investment companies as defined by section 3(a)(3) of the Act.

[4] Hearings before the Subcommittee on Securities and Exchange of the House Committee on Interstate and Foreign Commerce, 76th Cong., 3d Sess. on H.R. 10065 at 102 (1940); Hearings before the Subcommittee on Securities and Exchange of the Senate Committee on Banking and Commerce, 76th Cong., 3d Sess. on S. 3580 at 177–78 (1940) ("Senate Hearing").

[5] See, e.g., Struthers Capital Corporation, Investment Company Act Release Nos. 8016 and 7938 (September 27, 1973, and Aug. 10, 1973); and Foothill Venture Corporation, Investment Company Act Release Nos. 7374 and 7340 (Sept. 21, 1972, and Aug. 24, 1972). These orders were conditioned on the applicant's filing with the Commission certain financial and other information concerning the applicant and its parent. Companies relying on the proposed rule would not be required to file such information. Accord, staff responses to inquiries of George E. Carmody, P.C. (Aug. 16, 1978), and Rollinson & Schaumberg (Mar. 9, 1977), in which no such filings were required.

[6] Section 3(a)(1) of the Act defines investment company to be any issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities.

[7] N. 3, supra.

[8] N. 5, supra.

[9] Ebasco Industries, Inc., Brazilian Electric Power Company, and Empresas Electricas Argentinas, Investment Company Act Release Nos. 6025 and 6006 (Apr. 9, 1970, and Mar. 23, 1970). Accord staff responses cited in note 5, supra. These staff letters were conditioned, generally, upon the aggregate value of the corporate parent's investment securities and interest in the subsidiary representing less than 40 percent of the value of the parent's assets. The Commission has incorporated a modified version of this condition as part of the proposed rule. N. 10, infra.

[10] Paragraph (a) of proposed rule 3a–1 would require, generally, that a company have no more than 45 percent of the value of its total assets (exclusive of Government Securities and cash items) consisting of, and receive no more than 45 percent of its net income after taxes from, securities other than Government securities, securities issued by employees' securities companies, and securities issued by certain majority-owned subsidiaries and certain controlled companies of such issuer.

Footnotes continued on next page

This condition would act as a safeguard against arrangements—such as a parent company's establishing a wholly-owned investment company subsidiary with assets significantly greater than those of the parent—designed to circumvent the Act.[11] The Commission will consider on a case-by-case basis, pursuant to the customary process of filing an application requesting an exemptive order, whether the particular facts and circumstances would justify issuing an exemptive order to those issuers which do not satisfy this requirement.

Text of Proposed Rulemaking

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by adding § 270.3a–3 as follows:

§ 270.3a–3 Certain investment companies owned by companies which are not investment companies.

Notwithstanding section 3(a)(1) or section 3(a)(3) of the Act, an issuer will be deemed not to be an investment company for purposes of the Act; *Provided*, That all of the outstanding securities of the issuer (other than short-term paper, directors; qualifying shares, and debt securities owned by the Small Business Administration) are directly or indirectly owned by a company which meets the requirements of paragraph (a) of rule 3a–1 under the Act and which is:

(a) A company that is not an investment company as defined in section 3(a) of the Act;

(b) A company that is an investment company as defined in section 3(a)(3) of the Act, but which is excluded from the definition of the term "investment company" by section 3(b)(1) or 3(b)(2) of the Act; or

(c) A company that is deemed not to be an investment company for purposes of the Act by § 270.3a–1.

Statutory basis: Proposed rule 3a–3 is promulgated pursuant to the provisions of sections 6(c) [15 U.S.C. 80a–6(c)] and 38(a) [15 U.S.C. 80a–37(a)] of the Act.

By the Commission.

November 16, 1979.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–36032 Filed 11–21–79; 8:45 am]

BILLING CODE 8010–01–M

Footnotes continued from last page

Moreover, paragraph (c) of proposed rule 3a–1 would provide that in determining this percentage an issuer shall consolidate its financial statements with those of any wholly-owned subsidiaries.

[11] The Commission emphasizes that, even without this safeguard, under Section 3(a)(1) the parent and subsidiary company relationships can be collapsed and the totality of the corporate arrangement be deemed to be an investment company. See Senate Hearings at 178.

17 CFR Part 270

[Release No. IC–10943, File No. S7–809]

Transient Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission today is proposing for public comment a rule which, subject to certain conditions, would deem certain issuers not to be investment companies for purposes of the Investment Company Act of 1940 for a period not to exceed one year. The proposed rule would exclude certain issuers—which otherwise would be considered investment companies because of unusual corporate occurrences—from complying with that Act.

DATE: Comments must be received by January 11, 1980.

ADDRESSES: Send comments in triplicate to George A Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549. (Refer to File No. S7–809.) All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Mark J. Mackey, Esq., Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272–3045.

SUPPLEMENTARY INFORMATION: The Commission today is publishing for comment proposed rule 3a–2 [17 CFR 270.3a–2] under the Investment Company Act of 1940 ("Act") [15 U.S.C. 80a–1 et seq.] to deem certain issuers, which otherwise would be transient investment companies, not to be investment companies for purposes of the Act. The proposed rule was developed by the Division of Investment Management's Investment Company Act Study Group in the context of its re-examination of the regulation of investment companies.

Discussion

Section 3(a)(1) of the Act [15 U.S.C. 80a–3(a)(1)] defines the term "investment company" to be any issuer which is or holds itself out as being engaged primarily or proposes to engage primarily, in the business of investing, reinvesting or trading in securities. Section 3(a)(3) of the Act [15 U.S.C. 80a–3(a)(3)] defines the term "investment

company" also to be any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and which owns, or proposes to acquire investment securites having a value [1] exceeding 40 percent of the value of such issuer's total assets (exclusive of Government securities [2] and cash items) on an unconsolidated basis. The term "investment securities" is defined in section 3(a) to include all securities, except (A) Government securities, (B) securities issued by employees' securities companies,[3] and (C) securities issued by majority-owned subsidiaries [4] of the owner which are not investment companies.

From time to time, as a result of an unusual business occurrence, an issuer may be considered an investment company under these statutory definitions, although it would remain in such status only transiently. Examples of such unusual business occurrences include:

(1) A "start-up" company's investing its offering proceeds in securities while arranging to purchase operating assets [5];

(2) A company's selling a large operating division and investing the proceeds in securities pending acquisition of additional operating assets [6]; and

(3) A company's making a tender offer to stockholders of a non-investment company, and failing to obtain a majority of the target company's stock.

Frequently, such issuers have a *bona fide* intent to change their operations or assets within a short period of time so that they would no longer meet the statutory definition of an investment company. In many such instances, the issuer may argue that it is not in the "business" of investing, reinvesting, owning, holding or trading in securities for purposes of determining whether it is an investment company.[7] Moreover, it may not be appropriate to require an issuer to effect for only an interim period the significant operational modifications—including modifications to its capital structure—which may be necessary to comply with the Act.

Accordingly, the Commission's Division of Investment Management has provided "no-action" assurances to issuer which did not intend to register under the Act, contingent upon representations that the issuer is engaged in *bona fide* efforts to cease meeting the statutory definition of the term "investment company" within a one-year period.[8]

Proposed Rule

The Commission believes that it would be appropriate by rulemaking to exclude temporarily from the Act's definition of investment company certain transient investment companies. Therefore, it proposes to adopt new rule 3a–2 which, subject to conditions, effectively would provide these companies with a temporary exemption from regulation under the Act.

Proposed rule 3a–2 would deem an issuer *not* to be engaged in the business of investing, reinvesting, owning, holding or trading in securities for purposes of section 3(a)(1) or 3(a)(3) of the Act during a period of time not to exceed one year, provided that specified safeguards are satisfied.[9]

As a safeguard, the rule would require the issuer to have a *bona fide* intent during that year to be engaged primarily, by the termination of such period of time, in a business other than that of investing, reinvesting, owning, holding or trading in securities. This intent must be evidenced by an appropriate resolution of the issuer's board of directors and recorded contemporaneously in its minute books.[10] Such action would be a prerequisite to an issuer's reliance on the rule.

If, at the expiration of the period during which an issuer may rely on the rule, it is not actually engaged primarily in a non-investment company business, it would be required to so notify within 10 calendar days the Director of the Commission's Division of Investment Management. This requirement would allow the Commission or its staff to take any appropriate action on a case-by-case basis.

The maximum one-year period of time for which the rule would be available to an issuer would be calculated from the earlier of two dates. One date would be the date in which an issuer—such as a "start up" enterprise which temporarily is engaged primarily in investment activities—owns securities and/or cash having a value exceeding 50 per cent of the value of such issuer's total assets. The alternative date would be the date on which an issuer—such as a company having sold substantial operating assets, which intends temporarily to invest the proceeds pending the acquisition of new operating assets—owns or proposes to acquire certain investment securities representing greater than 40 percent of the issuer's total assets. Therefore, the rule's maximum one-year period of exclusion begins to run regardless of whether the issuer has yet determined its subsequent business.

In order that an issuer could not circumvent the Act by repeatedly invoking reliance on proposed rule 3a–2, the rule would provide that it would not apply more frequently than once during any three-year period. Where an issuer's

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[1] Section 2(a)(41) of the Act [15 U.S.C. 80a–2(a)(41)] provides, in part, that the term "value" for purposes of section 3 of the Act means—

(i) with respect to securities owned at the end of the last preceding fiscal quarter for which market quotations are readily available, the market value at the end of such quarter; (ii) with respect to other securities and assets owned at the end of the last preceding fiscal quarter, fair value at the end, of such quarter, as determined in good faith by the board of directors; and (iii) with respect to securities and other assets acquired after the end of the last preceding fiscal quarter, the cost thereof. . . .

[2] The term "Government security" is defined in section 2(a)(16) of the Act [15 U.S.C. 80a–2(a)(16)], in part, as any security issued or guaranteed as to principal or interest by the United States.

[3] The term "employees' securities company" is defined in section 2(a)(13) of the Act [15 U.S.C. 80a–2(a)(13)] as, generally, any investment company all the outstanding securities of which, other than short-term paper, are owned by, among others, employees of a company.

[4] The term "majority-owned subsidiary" is defined in section 2(a)(24) [15 U.S.C. 80a–2(a)(24)] as, in part, a company 50 percent or more of the outstanding voting securities of which are owned by a person.

[5] Real estate syndications and other tax shelters usually remain transient investment companies longer than other "start-up" companies because of the substantial amount of time needed to analyze, organize and purchase interests in a specific tax shelter. See, e.g., Securities and Exchange Commission Report of the SEC Real Estate Advisory Committee 50–54 (1972).

[6] A company selling its assets in the process of final dissolution in activities that are merely incidental to the dissolution would be effectively excluded from the Act pursuant to section 7(a). See staff response to inquiry of Kaplan, Livingston, Goodwin, Berkowitz & Selvin (May 17, 1973).

[7] See, SEC v. Fifth Avenue Coach Lines, Inc., 289 F.Supp. 3 (S.D.N.Y. 1968). In that decision, it was held that 2½ months was "not too much time to allow" an issuer, which had invested proceeds from the condemnation of a prior business "to make up its mind what business it will henceforth engage in." Id. at 31.

[8] "The question in any case is whether the investment is temporary. Generally, we would consider a practice that continued for more than one year as no longer being temporary." Staff response to inquiry of McKenna & Fitting (June 14, 1979).

[9] It should be noted that—regardless of the business in which an issuer actually is engaged primarily—an issuer which holds itself out as being engaged primarily, or which proposes to engage primarily, in the business of investing, reinvesting or trading in securities would be an investment company under section 3(a)(1) of the Act. This rule, of course, would not affect such an issuer's status under the Act.

[10] Of course, insofar as this intent may be material to investment or voting decisions, it would be required to be stated in appropriate disclosure documents of the issuer.

activities would bring it within the definition of investment company more frequently than would be permitted by the rule, the investor protection concerns of the Act would be relevant, the need for shareholder protections would not be met, and there would be no persuasive public interest from the standpoint of investors in permitting a nontransient investment company to avoid complying with the prohibitions and regulatory provisions of the Act.

Text of Proposed Rule

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by adding § 270.3a–2 as follows:

§ 270.3a–2 Transient investment companies.

(a) For purposes of section 3(a)(1) and section 3(a)(3) of the Act, an issuer is deemed not to be engaged in the business of investing, reinvesting, owning, holding or trading in securities during a period of time not to exceed one year; *Provided,* That:

(1) The issuer has a bona fide intent (as evidenced by an appropriate resolution of its board of directors which has been recorded contemporaneously in its minute books) to be engaged primarily, by the termination of such period of time, in a business other than that of investing, reinvesting, owning, holding or trading in securities; and

(2) If, at the expiration of this period of time, the issuer is not engaged primarily in a business other than that of investing, reinvesting, owning, holding or trading in securities, it shall so notify within 10 calendar days the Director, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

(b) For purposes of this rule, the period of time described in paragraph (a) shall commence on the earlier of:

(1) The date on which an issuer owns securities and/or cash having a value exceeding 50 per cent of the value of such issuer's total assets on either a consolidated or unconsolidated basis; or

(2) The date on which an issuer owns or proposes to acquire investment securities (as defined in section 3(a) of the Act) having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

(c) No issuer may rely on this section more frequently than once during any three-year period.

Statutory basis: Proposed rule 3a–2 is promulgated pursuant to the provisions of sections 6(c) [15 U.S.C. 80a–6(c)] and 38(a) [15 U.S.C. 80a–37(a)] of the Act.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–36031 Filed 11–21–79; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM79–79]

Price Squeeze—Procedural Rules

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its Regulations under the Federal Power Act (18 CFR Part 35) by adding a new § 35.30 which would establish the procedural rules governing Commission proceedings involving an issue of price squeeze in the electric industry. On this date and in a companion rulemaking (Docket No. RM79–80), the Commission is proposing to add a new § 35.32 to Part 35, which would establish the substantive rules relating to Commission consideration of a price squeeze issue. New §§ 35.30 and 35.32 together would supersede present § 2.17 of the Commission's regulations on General Policy and Interpretations (18 CFR Part 2).

DATE: Written comments by: December 24, 1979. Public hearing to be announced.

ADDRESS: Written comments should be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should reference Docket No. RM79–79.

HEARING LOCATION: To be announced.

FOR FURTHER INFORMATION CONTACT:

Angela Lancaster, Office of the Chairman, Federal Energy Regulatory Commission, Room 9000, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8333

or

Bonnie Cord, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8104–A, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8170.

SUPPLEMENTARY INFORMATION:

Issued: November 19, 1979.

I. Background

The Federal Energy Regulatory Commission (Commission) is proposing to amend its Regulations under the Federal Power Act (18 CFR Part 35) by adding a new § 35.30 which would establish the procedural rules governing Commission proceedings involving an issue of price squeeze in the electric industry. On this date and in a companion rulemaking (Docket No. RM79–80), the Commission is also proposing to add a new § 35.32 to Part 35, which would establish the substantive rules relating to Commission consideration of a price squeeze issue. New §§ 35.30 and 35.32 together would supersede present § 2.17 of the Commission's regulations concerning General Policy and Interpretations (18 CFR Part 2).

Price squeeze is the term used to describe price discrimination, with an anticompetitive effect, against an electric utility's wholesale customer. Specifically, price squeeze exists if a utility's price for wholesale service is higher in relation to wholesale costs than is the utility's price for retail service in relation to retail costs, resulting in actual or potential impairment of the wholesale customer's ability to compete with the utility for retail service.

The Federal Power Commission (predecessor of the Federal Energy Regulatory Commission) addded § 2.17 to its regulations on March 21, 1977, in Order No. 563. That section was added to comply with the Supreme Court's decision in *F.P.C.* v. *Conway Corp.*, 426 U.S. 271 (1976), *aff'g* 510 F.2d 1264 (D.C. Cir. 1975), which required the Commission to consider price squeeze as part of its determination as to whether a utility's wholesale rate is just and reasonable. Section 2.17 established the substantive and procedural guidelines to be followed by parties in trying price squeeze cases before the Commission.

When § 2.17 was promulgated, the Federal Power Commission recognized that it did not have sufficient experience with price squeeze issues to promulgate a rule concerning price squeeze and, therefore, issued § 2.17 as a Statement of Policy. Since that time, the Commission staff (staff) and other participants to proceedings involving price squeeze issue have developed practical experience working under the procedures and requirements specified in § 2.17. The Commission has issued several decisions which resolve many of the substantive and procedural questions involved in the consideration of a price squeeze issue. Further, the Commission has reviewed most of the questions in a generic manner at public meetings held on June 28 and 29, 1979. The experience gained since promulgation of § 2.17, the issued

decisions, and the Commission's conclusions at the public meetings are reflected in this proposed rulemaking and in the companion proposed rulemaking which would establish new § 35.32.

II. Summary of the Proposed Regulations

Paragraph (a) of new § 35.30 provides that the procedures in this section are applicable to proceedings involving price squeeze as defined in § 35.32(b)(1).

Paragraph (b) of § 35.80 provides that the definitions set forth in § 35.32 also apply to § 35.30. That paragraph also defines the term "top sheets."

Paragraph (c) of § 35.30 establishes the proceedings in which, and the procedures by which, price squeeze may become an issue in a Commission proceeding. Subparagraph (1) lists the types of proceedings in which the issue of price squeeze may be raised. That subparagraph provides that price squeeze may be alleged against an electric utility in any proceeding arising from the filing, by the utility, of a request for increased rates under § 35.13 or of an initial rate under § 35.12 or in any proceeding involving that utility's rates conducted pursuant to section 206 of the Federal Power Act (16 U.S.C. 824e (a) and (b)). Subparagraph (2) of paragraph (c) establishes the procedures by which price squeeze may become an issue in proceedings specified in subparagraph (1). The procedures set forth in subparagraph (2)(i) through (iii), relating to intervention and complaints are essentially identical to, and merely clarify, the procedures set forth in § 2.17. The provisions of subparagraph (2)(iv), articulating procedures pertaining to the staff, incorporate the Commission's decision in *Connecticut Light and Power Company*, Docket No. ER78–517 (August 20, 1979). In that decision the Commission recognized that the staff is not required to file a petition to intervene and that the staff is unlikely at the initial intervention stage to have the information necessary to determine whether the price squeeze issue has merit. The Commission held that the staff would be permitted to submit a motion to expand the scope of the proceeding if the price squeeze issue has not been raised by an intervenor or complainant, or if an intervenor or complainant has failed to establish a *prima facie* case. Specific authority was given to the presiding judge to rule on such a motion, after the granting of which the staff would be held to the same procedural and substantive requirements as any other participant in the proceeding. In the event that an intervenor or complainant had made a *prima facie* case, the staff would be permitted to participate as a matter of course.

Paragraph (d) provides that if no intervenor or complainant has raised the issue of price squeeze in accordance with paragraph (c), the staff may file with the presiding judge a "Motion to expand the scope of the proceding" at any time prior to the issuance of top sheets. In that situation, price squeeze will be an issue in the proceeding only if the judge grants the staff's motion.

Paragraph (e) of §35.30, which describes the structure of a proceeding involving a price squeeze issue, incorporates the Commission's decisions in several cases. In an order issued in *Arkansas Power and Light Company*, Docket No. ER79–339, (August 6, 1979), a section 205 proceeding, the Commission stated that it preferred to consider the price squeeze issue in a separate phase of the proceeding (phasing) and held that, in all newly docketed cases in which price squeeze was alleged, all other issues in the proceeding would be considered and decided prior to consideration of the price squeeze issue. However, the Commission granted discretion to the presiding judge, on his or her own motion or the motion of the staff or any party, to determine not to phase the price squeeze issue.

The Commission held further that, if phasing were ordered, the first phase or phases would address and resolve the cost of service (including capitalization and rate of return) issues, after which a preliminary Commission decision would be issued and any refunds to the level of the rate specified in the preliminary decision would be ordered by the Commission. The issue of price squeeze would then be considered in a new phase of the party alleging price squeeze determined that the preliminary just and reasonable wholesale rate still presented a price squeeze and determined to pursue its price squeeze allegations. The Commission advocated such phasing because resolution of the cost of service issues often eliminates, or at least substantially diminishes, any unjustified disparity between the wholesale and retail rates so that the price squeeze issue no longer exists. In addition, as the Commission noted in *Southern California Edison Company*, Opinion No. 62 at 29 (August 22, 1979), this procedure allows the wholesale customers to obtain refunds of all amounts collected in excess of the preliminary just and reasonable rate at an earlier date.

In an order issued in *Public Service Company of New Mexico*, Docket Nos. ER79–478 and ER79–479 (August 28, 1979), the Commission adopted a different approach for filings involving contracts under which rates may be increased only after issuance of a final Commission opinion. In that case, the Commission did not phase the price squeeze issue on the section 206 filing, since under section 206 no rate relief can be afforded until the end of the entire proceeding. Although the Commission did not order phasing in that proceeding, it gave the presiding judge authority to order phasing in his or her discretion provided that the utility did not object. Further, even though that docket also concerned a section 205 filing, the Commission declined to order phasing of the price squeeze issue pertaining to that filing, again leaving discretion to order phasing with the presiding judge.

Paragraph (e) of §35.30 incorporates the decisions in these cases with respect to phasing the price squeeze issue. Subparagraph (l)(i) specifies the proceedings which will be phased automatically. Clause (ii) of subparagraph (l) provides that the presiding judge has discretion to order that these proceedings not be phased if he or she determines that circumstances exist which warrant not phasing the price squeeze issue. As discussed in the Notice proposing the establishment of §35.32 (Docket No. RM79–80), issued simultaneously with this rulemaking, the Commission has determined that, in light of the Commission's limited remedial powers, the preliminary just and reasonable wholesale rate is the appropriate rate to be compared with the relevant retail rate for price squeeze purposes. Consistent with this determination, the Commission emphasizes its strong preference for phasing of the price squeeze issue. Although the Commission cannot at this time conceive of circumstances which would warrant unphasing of proceedings specified in subparagraph (l)(i), discretion has been given to the presiding judge to determine in a particular case that such circumstances exist.

Subparagraph (2) of paragraph (e) specifies those proceedings in which the price squeeze issue will be phased if the judge so orders, unless the utility objects.

Paragraph (f) establishes procedures pertaining to the presiding judge's decision on phasing and provides opportunity for the staff or any party to argue before the presiding judge on phasing.

Paragraph (g) sets forth the procedures governing consideration of the price squeeze issue if phasing has been ordered. Subparagraph (l) provides that, if so ordered by the Commission, the wholesale rate, established by the

Commission prior to commencement of the price squeeze phase of the proceeding (the "preliminary just and reasonable wholesale rate"), will be charged during the price squeeze phase and that the wholesale customer may collect any refunds ordered by the Commission should the preliminary just and reasonable wholesale rate be less than the rate previously charged.[1]

Subparagraph (2) of paragraph (g) requires that the price squeeze allegations be renewed by parties after completion of the cost of service phases. Except as provided in paragraph (g)(3), if the price squeeze allegations are not renewed, the preliminary just and reasonable wholesale rate is deemed to be the final just and reasonable wholesale rate.

Subparagraph (3) of paragraph (g) provides that, if no renewed allegations have been filed under subparagraph (2), and if the staff wishes to litigate the price squeeze issue, the staff shall submit to the Commission a "Motion to continue consideration of the price squeeze issue." If the staff's motion is denied by the Commission, price squeeze will not be considered in the proceedings and the preliminary just and reasonable wholesale rate shall be deemed the final just and reasonable wholesale rate.

Subparagraphs (4) through (10) of paragraph (g) specify the time limits for further submissions on the price squeeze issue.

Paragraph (h) sets forth the procedures governing consideration of the price squeeze issue if phasing has not been ordered. These procedures are essentially the same as those established in paragraph (g), with the exception that different procedures are applicable to the staff in accordance with the Commission's decision in *Connecticut Light and Power*, discussed above. Subparagraph (10) provides that the staff may request by motion permission to litigate the price squeeze issue if the parties have failed to make the *prima facie* case. Subparagraphs (11) through (13) establish the applicable procedures, if the presiding judge grants the staff's motion. Subparagraph (14) directs the presiding judge to establish procedural dates for further consideration of the price squeeze issue if the elements of a *prima facie* case have been satisfied.

[1] After the Commission rules on an application for rehearing of the Commission's preliminary decision, the Commission believes that any party that applied for rehearing may seek court review of the Commission's preliminary just and reasonable rate level determination in accordance with section 313 of the Federal Power Act.

III. Public Comments and Public Hearing

The Commission invites interested persons to submit written data, views and other information with respect to the matters contained in this notice. All comments should be verified, should reference Docket No. RM79–79, and should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An original and 14 conformed copies should be filed. All such submissions filed by December 24, 1979, will be considered by the Commission prior to issuance of a final rule.

All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during regular business hours.

The Commission intends to conduct a public hearing on the matters contained in this notice and in the companion notice (Docket No. RM79–80). The members of the panel at that hearing will be designated by the Chairman of the Commission. The date, location and procedures will be announced in the near future.

(Federal Power Act, 16 U.S.C. §§ 791–828c; Department of Energy Organization Act, 42 U.S.C. §§ 7101–7352, E.O. 12009, 42 Fed. Reg. 46267)

In consideration of the foregoing, the Commission is proposing to amend Part 35, Subchapter B, Chapter 1 of Title 18, Code of Federal Regulations as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 35—FILING OF RATE SCHEDULES

1. Part 35 is amended in the Table of Contents by adding in the appropriate numerical order a new section and heading to read as follows:

§ 35.30 Price squeeze—procedural rules.

2. Part 35 is further amended in the Statement of Authority by adding the following phrase to the end thereof:

42 U.S.C. 7101–7352, E.O. 12009, 42 F.R. 46467.

3. Part 35 is further amended by adding § 35.30 to read as follows:

§ 35.30 Price squeeze—procedural rules.

(a) *Applicability.* This section sets forth the procedures applicable to proceedings in which the issue of price squeeze, as defined in § 35.32 of this chapter, is alleged.

(b) *Definitions.* The definitions set forth in § 35.32 of this chapter apply to this section. For purposes of this section the term "top sheets" means the cost of service analysis prepared by the staff for settlement purposes only and served upon all parties to the proceeding in advance of the first scheduled settlement conference.

(c) *Price squeeze as an issue in a Commission proceeding.* (1) Price squeeze may be an issue in the following proceedings:

(i) Any proceeding arising from a filing for a rate increase made by an electric utility under § 35.13;

(ii) Any proceeding arising from a filing of an initial rate made by an electric utility under § 35.12; and

(iii) Any proceeding concerning the electric utility's rates which is conducted pursuant to section 206 of the Federal Power Act.

(2) Price squeeze may be considered as an issue in those proceedings specified in paragraph (c)(1) of this section only if:

(i) a person files with the Commission a petition to intervene, in accordance with § 1.8 of this chapter, alleging a price squeeze;

(ii) a State Commission files with the Commission a notice of intervention, in accordance with § 1.8, alleging a price squeeze;

(iii) a person files a complaint with the Commission pursuant to section 206 of the Federal Power Act, in accordance with § 1.6 of this chapter, alleging a price squeeze; or

(iv) the staff files with the presiding judge, as specified in paragraph (d) of this section a motion alleging a price squeeze.

(3) When price squeeze becomes an issue in a Commission proceeding, the Secretary shall add to the service list, maintained under § 1.17(c) of this chapter, the State Commission, agency or body that is responsible for regulation of retail rates for each State in which the utility provides electric service.

(d) *Raising of price squeeze issue by the staff.* (1) If no intervenor or complainant has alleged price squeeze in accordance with paragraph (c)(2) (i) through (iii) of this section, the staff may file with the presiding judge a "Motion to expand the scope of the proceeding" at any time prior to the issuance of top sheets.

(2) If the presiding judge grants the staff's motion under paragraph (d)(1) of this section, price squeeze shall be an issue in the proceedings. If the judge denies the staff's motion, price squeeze shall not be an issue in the proceeding.

(e) *Phasing of proceedings involving the price squeeze issue.* (1) This

subparagraph applies to proceedings arising solely under section 205 in which the proposed wholesale rates may become effective subject to refund or a proceeding involving certain complaints under section 206 of the Federal Power Act.

(i) A proceeding specified in paragraph (e)(1)(i) (A) or (B) of this section shall be conducted in separate phases if price squeeze is an issue, unless the presiding judge orders otherwise under paragraph (e)(ii) of this section. The initial phase or phases shall resolve all issues regarding cost of service and shall result in a determination by the Commission of a preliminary just and reasonable wholesale rate. The price squeeze issue shall be considered in a subsequent phase in accordance with the provisions of paragraph (g) of this section. This subparagraph applies to the following proceedings:

(A) proceedings which arise solely from a filing by an electric utility of a proposed increased rate under § 35.13 which may become effective subject to refund or an initial rate under § 35.12; or

(B) proceedings which arise from the filing of a complaint under § 1.6 of this chapter and pursuant to section 206 of the Federal Power Act, which complaint alleges that an electric utility's rate is excessive.

(ii) The presiding judge may determine on his or her own motion, or upon motion of the staff or any party, that circumstances exist which warrant that all or part (*e.g.*, discovery) of the price squeeze issue not be considered in a separate phase.

(2) If price squeeze is an issue in a proceeding conducted entirely under section 206 of the Federal Power Act, other than a proceeding described in paragraph (e)(1)(i) (A) or (B) of this section, the presiding judge may determine that the price squeeze issue be considered in a separate phase of the proceeding, unless the electric utility whose rates are the subject of the proceeding objects to the consideration of the price squeeze issue in a separate phase.

(3) Any determination on phasing the proceeding which is made by a presiding judge under this paragraph shall be made in accordance with the procedures specified in paragraph (f) of this section.

(f) *Procedures for determination on phasing.* (1) Within fifteen days after issuance of the order setting the matter for hearing, or within fifteen days after the granting of staff's "Motion to expand the scope of the proceeding" under paragraph (d) of this section, the staff or any party may file with the presiding judge a motion requesting that the price squeeze issue not be considered in a separate phase of a proceeding specified in paragraph (e)(1) of this section, or that the price squeeze issue be considered in a separate phase of a proceeding specified in paragraph (e)(2) of this section.

(2) Within five days after the date by which all motions made under paragraph (f)(1) of this section are to be filed, the staff or any party may file with the presiding judge a reply to such motions.

(3) Within ten days after the date by which replies made under paragraph (f)(2) of this section are to be filed, the presiding judge shall issue a decision on whether to consider the price squeeze issue in a separate phase.

(4) If the judge decides to consider the price squeeze issue in a separate phase, that phase shall be conducted in accordance with paragraph (g) of this section. If the judge decides not to consider the price squeeze issue in a separate phase, the proceeding shall be conducted in accordance with paragraph (h) of this section.

(g) *Procedures if there is separate phasing of the price squeeze issue.* The following procedures apply to proceedings in which the price squeeze issue is considered in a separate phase.

(1) If so ordered by the Commission, the utility shall charge the preliminary just and reasonable wholesale rate or rates during the price squeeze phase and shall refund any amounts collected during all prior phases of the proceeding which are in excess of the preliminary just and reasonable wholesale rate or rates.

(2) Except as provided in paragraph (g)(3) of this section, unless the alleging party refiles its price squeeze allegation after the final decision establishing the preliminary just and reasonable wholesale rates has been issued but no later than thirty days after the Commission accepts the utility's compliance filing, the price squeeze issue shall not be considered in the proceeding and the preliminary just and reasonable wholesale rate shall be deemed to be the just and reasonable wholesale rate.

(3) If no price squeeze allegations have been refiled by intervenors or complainants within the time period specified in paragraph (g)(2) of this section or if the price squeeze issue was not raised by intervenors or complainants in accordance with paragraph (c)(2)(i) through (iii) of this section, and if the staff wishes to litigate the price squeeze issue, the staff shall submit to the Commission a "Motion to continue consideration of the price squeeze issue, no later than seven days after the end of the time period specified in paragraph (g)(2) of this section. If the staff's motion is denied by the Commission, the price squeeze issue shall not be considered in the proceeding and the preliminary just and reasonable wholesale rate shall be deemed to be the just and reasonable wholesale rate.

(4) Within fifteen days after the date by which renewed allegations must be filed under paragraph (g)(2) of this section, or within fifteen days after the date on which the Commission grants the staff's motion under paragraph (g)(3) of this section, intervenors, complainants or the staff shall file with the presiding judge any requests for data required to present their case.

(5) Within fifteen days after the date by which data requests must be filed under paragraph (g)(4) of this section, the presiding judge shall convene a prehearing conference for the purpose of hearing argument on such data requests. At the conference the judge shall identify the specific data requests to which the utility will be required to respond.

(6) Within thirty days after the date of the prehearing conference specified in paragraph (g)(5) of this section, the utility shall respond to the data requests identified by the judge under paragraph (g)(5) of this section.

(7) Within thirty days after the date on which the utility makes a response under paragraph (g)(6) of this section intervenors, complainants, and the staff shall file their *prima facie* cases, as described in § 35.32(c).

(8) Within fifteen days after the date by which the *prima facie* case (or cases) is to be filed under paragraph (g)(7) of this section, the staff or any party may file a pleading alleging that such *prima facie* case does or does not fulfill the requirements of § 35.32(c).

(9) Within twenty days after the date by which pleadings are to be filed under paragraph (g)(8) of this section, the presiding judge shall determine whether the case filed under paragraph (g)(7) of this section satisfies the requirement of a *prima facie* case specified in § 35.32(c). If the judge determines that the requirements for a *prima facie* case have been satisfied, that determination shall not be reviewable by the Commission.

(10) If the presiding judge decides that the requirements for a *prima facie* case have been satisfied, the presiding judge shall set procedural dates for the following:

(i) submission by the utility of evidence (including evidence relating to the *prima facie* case) to justify the

preliminary just and reasonable wholesale rate;

(ii) submission of additional evidence which the judge in her or his discretion deems appropriate; and

(iii) commencement of the hearing.

(h) *Procedures if there is no separate phasing of the price squeeze issue.* The following procedures apply to proceedings in which the price squeeze issue is not considered in a separate phase.

(1) Intervenors or complainants shall file with the presiding judge any requests for data required to present their cases:

(i) if no motions concerning the phasing of the proceeding have been filed under paragraph (f)(1) of this section, within thirty days after issuance of the order setting the matter for hearing or within thirty days after the granting of the staff's "Motion to expand the scope of the proceedings" under paragraph (d) of this section; or

(ii) if a motion concerning the phasing of the proceeding has been made under paragraph (f)(1) of this section, within fifteen days after the judge's determination under paragraph (e) of this section, that the proceeding will not be phased.

(2) Within ten days after the date by which data requests must be filed by intervenors and complainants under paragraph (h)(1) of this section, the staff file with the presiding judge any requests for data required to present its case.

(3) Within fifteen days after the date by which data requests must be filed under paragraph (h)(2) of this section, the presiding judge shall convene a prehearing conference for the purpose of hearing argument on data requests filed under paragraphs (h) (1) and (2) of this section. At the conference, the judge shall identify the specific data requests to which the utility will be required to respond.

(4) Within thirty days after the data of the prehearing conference specified in paragraph (h)(3) of this section, the utility shall respond to the data requests of intervenors and complainants filed under paragraph (h)(1) of this section and identified by the judge under paragraph (g)(3) of this section.

(5) Within twenty days after the date on which the utility is required to make a response under paragraph (h)(4) of this section, the utility shall respond to the data requests of the staff filed under paragraph (h)(2) of this section, and identified by the judge under paragraph (h)(3) of this section.

(6) Within thirty days after the date on which the utility makes a response under paragraph (h)(4) of this section, intervenors and complainants shall file their *prima facie* cases, as described in § 35.32(c).

(7) Within fifteen days after the date by which the *prima facie* case (or cases) is to be filed under paragraph (h)(6) of this section, the staff or any party may file a pleading alleging that such *prima facie* case does or does not fulfill the requirements of § 35.32(c).

(8) Within twenty days after the date by which pleadings are to be filed under paragraph (h)(7) of this section, the presiding judge shall determine whether the case filed under paragraph (h)(6) of this section satisfies the requirements of a *prima facie* case specified in § 35.32(c). If the judge determines that the requirements for a *prima facie* case have been satisfied, that determination shall not be reviewable by the Commission and the staff shall not be required to file a *prima facie* case.

(9) If the judge determines under paragraph (h)(8) of this section, that the requirements of a *prima facie* case have not been satisfied, the staff may file with the judge a "Motion to continue consideration of the price squeeze issue" within fifteen days after the date of the judge's determination under paragraph (h)(8) of this section. If the staff has filed such a motion within the specified time, the presiding judge shall determine whether to grant or deny the motion. If the presiding judge denies the staff's motion, or if the staff did not file such motion within the specified time, the price squeeze issue shall not be considered further in the proceeding.

(10) Within fifteen days after the presiding judge grants the staff's motion under paragraph (h)(9) of this section, the staff shall file its *prima facie* case, as described in § 35.32(c).

(11) Within fifteen days after the date by which the staff's *prima facie* case is to be filed under paragraph (h)(10) of this section, any party or the staff may file a pleading alleging that such *prima facie* case does or does not fulfill the requirements of § 35.32(c).

(12) Within twenty days after the date by which pleadings are to be filed under paragraph (h)(11) of this section, the presiding judge shall determine whether the staff's *prima facie* case satisfies the requirements of a *prima facie* case specified in § 35.32(c). If the judge determines that the requirements for a *prima facie* case have been satisfied, that determination shall not be reviewable by the Commission. If the presiding judge determines that the requirements of the *prima facie* case have not been satisfied, the price squeeze issue shall not be considered further in the proceeding.

(13) If the presiding judge determines under paragraph (h)(8) or paragraph (h)(12) of this section that the elements of a *prima facie* case have been satisfied, the presiding judge shall set procedural dates for the following:

(i) submission by the utility of evidence (including evidence relating to the *prima facie* case) to justify the proposed wholesale rate;

(ii) submission of additional evidence which the judge in his or her discretion deems appropriate; and

(iii) commencement of the hearing.

(i) *Change of procedural dates under this section.* The presiding judge may, in his or her discretion, and for good cause shown, change any procedural dates specified in this section.

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18 CFR Part 35

[Docket No. RM79-80]

Price Squeeze—Substantive Rules

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its Regulations under the Federal Power Act (18 CFR Part 35) by adding a new § 35.32 which would establish the substantive rules governing Commission proceedings involving an issue of price squeeze in the electric industry. On this date and in a companion rulemaking (Docket No. RM79-79), the Commission is proposing to add a new § 35.30 to Part 35, which would establish the procedural rules relating to Commission consideration of a price squeeze issue. New §§ 35.30 and 35.32 together would supersede present § 2.17 of the Commission's regulations on General Policy and Interpretations (18 CFR Part 2).

DATE: Written comments by: December 24, 1979. Public hearing to be announced.

ADDRESS: Written comments should be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 and should reference Docket No. RM79-80.

HEARING LOCATION: To be announced.

FOR FURTHER INFORMATION CONTACT:

Angela Lancaster, Office of the Chairman, Federal Energy Regulatory Commission, Room 9000, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8333, or

Bonnie Cord, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8104-A, 825 North Capitol Street,

N.E., Washington, D.C. 20426, (202) 357–8170.

SUPPLEMENTARY INFORMATION:

Issued: November 19, 1979.

I. Background

The Federal Energy Regulatory Commission (Commission) is proposing to amend its Regulations under the Federal Power Act (18 CFR Part 35) by adding a new § 35.32 which would establish the substantive rules governing Commission proceedings involving an issue of price squeeze in the electric industry. On this date and in a companion rulemaking (Docket No. RM79–79), the Commission is proposing to add a new § 35.30 to Part 35, which would establish the procedural rules relating to Commission consideration of a price squeeze issue. New §§ 35.30 and 35.32 together would supersede present § 2.17 of the Commission's regulations on General Policy and Interpretations (18 CFR Part 2).

Price squeeze is the term used to describe price discrimination, with an anticompetitive effect, against an electric utility's wholesale customer. Specifically, price squeeze exists if a utility's price for wholesale service is higher in relation to wholesale costs than is the utility's price for retail service in relation to retail costs, resulting in actual or potential impairment of the wholesale customer's ability to compete with the utility for that retail service.

The Federal Power Commission (predecessor to the Federal Energy Regulatory Commission) added § 2.17 to its regulations on March 21, 1977, in Order No. 563. That section was added to comply with the Supreme Court's decision in *F.P.C.* v. *Conway Corp.*, 426 U.S. 271 (1976), *aff'g* 510 F. 2d 1264 (D.C. Cir. 1975), which required the Commission to consider price squeeze as part of its determination as to whether a utility's wholesale rate is just and reasonable. Section 2.17 established the substantive and procedural guidelines to be followed by parties in trying price squeeze cases before the Commission.

When § 2.17 was promulgated, the Federal Power Commission recognized that it did not have sufficient experience with price squeeze issues to promulgate a rule concerning price squeeze and therefore, issued § 2.17 as a Statement of Policy. Since that time, the Commission staff (staff) and other participants to proceedings involving a price squeeze issue have developed practical experience working under the procedures and requirements specified in § 2.17. The Commission has issued several decisions which resolve many of the substantive and procedural questions involved in the consideration of a price squeeze issue. Further, the Commission has reviewed most of the questions in a generic manner at public meetings on June 28 and 29, 1979. The experience gained since promulgation of § 2.17, the issued decisions, and the Commission's conclusions at the public meetings are reflected in this proposed rulemaking and the companion proposed rulemaking which would establish new § 35.30.

II. Analysis of the Issues

In designing § 2.17, the Federal Power Commission was concerned that there would be a great waste of time and resources if a utility were required, as part of a rate increase application, to prove the absence of price discrimination among all wholesale and retail classes and subclasses. Consequently, the Commission placed upon a person alleging price squeeze a requirement to establish a *prima facie* case indicating the likelihood of the existence of a price squeeze. At the same time, the Commission recognized that in any rate increase application the ultimate burden of proof (*i.e.*, the risk of non-persuasion) rests on the utility.

This Commission believes that the concern of the Federal Power Commission in this regard was well placed. Although this Commission's analysis of price squeeze differs in some respects from that of the Federal Power Commission, the basic framework is administratively desirable and legally correct. Accordingly, the burden of establishing a *prima facie* case of price squeeze rests on the person alleging a price squeeze. If a *prima facie* case has been made, the burden of going forward shifts to the filing utility, and the utility bears the burden of proving that a proposed wholesale rate increase is not unduly discriminatory. However, consistent with Commission and judicial interpretation of section 206 of the Federal Power Act, in cases of an initial rate or a complaint filed pursuant to section 206, both the burden of going forward and the burden of proof rest on the person alleging a price squeeze.

In *Missouri Power and Light Company*, Opinion No. 31, (October 27, 1978), the Commission held that a three-part analysis would be applied to its consideration of a price squeeze issue. First, it must be determined whether there is price discrimination against the utility's wholesale customer with respect to rate(s) charged by the utility to its retail customers. Second, if price discrimination is found, it must be determined if there is, or if there is a potential for, an anticompetitive effect. Third, if the anticompetitive effect is also found, then a price squeeze situation exists, and the wholesale rate is considered to be unduly discriminatory, unless the Commission determines that there are countervailing public policy or factual circumstances which would cause the Commission to conclude that the discrimination is not undue. Since sections 205 and 206 of the Federal Power Act prohibit the establishment of a rate that is unduly discriminatory, remedial action must be considered if the discrimination is found to be undue.

The following discussion sets forth the Commission's position, and the rationale for the position, on each aspect of the analysis: price discrimination, anticompetitive effect, and undue discrimination.

A. Price Discrimination

In arriving at its determination as to what constitutes price discrimination, the Commission had considered defining price discrimination to include only those situations in which service characteristics of the wholesale and retail customers are comparable (similar) and the wholesale rates are higher than the retail rates. However, in *Missouri Power and Light Company*, Opinion No. 31–A (May 16, 1979), the Commission rejected this definition, recognizing that price discrimination can exist in cases where there is no disparity in rates but where the costs of serving wholesale customers are less than the costs of serving retail customers. Therefore, it is necessary to consider the wholesale and retail costs as well as rates to determine whether price discrimination exists. Accordingly, the Commission defines price discrimination as a situation in which the relationship of the wholesale rate to the wholesale costs is greater than the relationship of the relevant retail rate to retail costs. In this context, relationship means either the ratio of rates to costs or the difference between rates and costs. Hence, price discrimination exists if there is similarity of service *(i.e.*, approximately equal costs of service) between the wholesale and retail class and the rates for the wholesale class are higher. Price discrimination also exists if services are not similar but the retail rate is lower in relation to retail costs than the wholesale rate in relation to wholesale costs (where retail and wholesale costs are determined on a consistent basis), including situations in which the wholesale and retail rates are the same, but the costs of serving the wholesale class are less than the costs of serving the retail class.

The Commission believes that this definition is consistent with the *Conway* decision. In *Conway,* the Court was concerned that the price structure of the bulk power supplier resulted in unequal profit margins between wholesale and retail customers; that is, the wholesale customers might be discriminated against in the prices they were charged. An analysis focusing solely on similarity of service and a straight comparison of rates would fail to recognize that although the services may not be strictly similar, the price-to-cost relationships may still result in price discrimination against the wholesale customer. Further, this definition of price discrimination is consistent with price discrimination decisions under the antitrust laws, which have focused not only on differences in prices, but also on the cost-justification for the prices.

Having defined price discrimination, it is necessary to determine which wholesale rate and which retail rate should be compared in order to determine if price discrimination exists. With respect to wholesale rates, the question is whether to use the rate proposed by the utility and made effective subject to refund or the rate determined by the Commission to be just and reasonable but for consideration of the price squeeze issue. With respect to the retail rates, the question is whether to use the proposed retail rate, the effective retail rate subject to refund, or the finally effective retail rate.

In *Southern California Edison,* Opinion No. 62 (August 22, 1979), the Commission held that the "just and reasonable, but for price squeeze" wholesale rate, rather than the proposed wholesale rate, should be the rate compared to the relevant retail rate to determine if price discrimination exists. The "just and reasonable, but for price squeeze" wholesale rate (the preliminary just and reasonable wholesale rate) means the rate which the Commission determines to be just and reasonable after consideration of all issues in the proceeding except the price squeeze issue. This rate is not the final wholesale rate because, under section 205 of the Federal Power Act, the Commission cannot determine a final just and reasonable wholesale rate until it disposes of price squeeze allegations.

The Commission's holding in *Southern California Edison* that the preliminary just and reasonable rate should be used for comparison purposes was based upon ramifications of the Commission's limited "remedial" powers under the Federal Power Act. That act authorizes the Commission to suspend proposed rates for five months, to make the proposed rates effective subject to refund and to order prospective rate relief. Therefore, the Commission can only correct a situation in which it has determined that price squeeze exists by ordering refunds to the wholesale customer of rates paid in excess of the just and reasonable rate and by adjusting the rates for the future. The Commission does not have authority to grant damages to compensate wholesale customers for loss of business or other anticompetitive effects [1] due to the price discrimination; this relief must be sought in the courts. With respect to the relief that the Commission can provide for excess rates already charged, the Commission will, in any event, order refunds for all rates charged in excess of the preliminary just and reasonable wholesale rate, irrespective of any price squeeze issue. Hence customers will receive all the relief that the Commission can order for charges in excess of that rate.

Therefore, there is no practical benefit to be gained from comparing the proposed wholesale rate, instead of the preliminary just and reasonable wholesale rate, with the relevant retail rate.

For similar reasons, the Commission also held in *Southern California Edison* that the effective retail rate or rates should be used for comparison purposes. Unlike the wholesale rate, however, the effective retail rate could include a proposed or interim retail rate that is being collected subject to refund. This distinction is made because the Commission has no authority to adjust retail rates and cannot determine what adjustments the state commission will ultimately make when the final retail rate is established. The Commission, therefore, must accept whatever retail rate is in effect during the relevant time period for its comparisons. Moreover, it is the effective retail rate with which the wholesale customer must compete for retail customers.[2] Because the effective rate may change during the course of the Commission proceedings, it may be necessary to base the comparison on more than one retail rate.

The Commission wishes to emphasize the importance of the correct selection of the retail class used for comparison. This issue was discussed in depth in *Commonwealth Edison Company,* Opinion No. 63 (September 14, 1979) and Opinion No. 63–A (November 16, 1979). The relevant retail class for price discrimination comparisons consists of the customers for whom there is competition between the bulk power supplier and its wholesale customer. In *Cities of Batavia* v. *F. P. C.,* 548 F. 2d 1056 (D.C. Cir. 1977), the court was concerned about the reasonableness of the composition of a retail class that included all industrials regardless of their individual peak characteristics. The court's concern seemed to be that group subsidies within the industrial class might work to the competitive disadvantage of the wholesale class. For example, a wholesale customer may wish to compete for a part of the industrial class. If that part of the class were charged lower rates than their costs of service would justify because it was being subsidized by the rest of the industrial class whose costs of service were even lower, the wholesale customer would be disadvantaged in competing with the utility for that part of the class. This would be of concern to the Commission if the competition were solely for the subsidized group of customers and not also for the retail customers who provided the subsidy. Accordingly, the Commission believes that the person alleging a price squeeze should specify the group of customers for which competition exists, explain why the specified group was selected for comparison, and explain why other retail groups were not selected. Without this specification and explanation, the Commission cannot determine whether the alleged price discrimination with respect to this group has the potential of causing an anticompetitive effect.

In the comparison of the relevant retail group to the wholesale customer(s), the Commission has determined that the average or aggregate class characteristics of the relevant retail and wholesale classes may be used unless the whole class is not the object of competition.

In order to satisfy the price discrimination requirement of a *prima facie* case, the person alleging a price squeeze may make a direct comparison of the relevant wholesale and retail rates, without an examination of the respective costs of service, if the wholesale rate is higher than the retail rate. If the wholesale rate is not higher, the person may satisfy the price discrimination requirement of the *prima facie* case by comparing the price/cost relationships of the two rates. If the price/cost relationship comparison is made, the person alleging a price squeeze need only show, in the *prima facie* case, that certain cost-determining factors indicate that price discrimination

[1] *See* note 3, *infra,* p. 19.

[2] If a final retail rate is determined and refunds ordered during the course of the wholesale proceeding, it is the lower rate that is the effective rate for these purposes.

exists, without specifically quantifying the costs.

The Commission recognizes that such a minimal showing of costs in the *prima facie* case makes the burden of going forward relatively light, but believes that such a showing is all that should be required in the *prima facie* case, for two reasons: the utility has the burden of proof in wholesale rate increase cases; and the utility possesses, or should be able to develop, the load and cost data needed to make the price/cost comparison. The first factor, the utility's burden of proof, requires that the showings necessary to show price discrimination for purposes of a *prima facie* case be less stringent than the showings necessary to demonstrate price discrimination if the person alleging price squeeze bore the burden of proof. The Commission has been unable to devise a requirement to show costs, for purposes of the price discrimination requirement of the *prima facie* case, which is heavier than the minimal showing and yet which does not, in essence, place the burden of proof on the person alleging the price squeeze.

Further, since any information (including estimates) on retail costs is far more accessible to the utility, the Commission feels that this information should be introduced by the utility after the *prima facie* case has been satisfied, when the utility presents its case to show cost-justification of the relvant rates. In promulgating regulations under section 133 of the Public Utility Regulatory Policies Act (16 U.S.C. 2643, Pub. L. 95–617, November 9, 1978), the Commission discovered that utilities often do not have the load data needed to ascertain with any precision the costs of serving a particular retail class. To the extent that the utilities do not have these data, the person alleging a price squeeze cannot secure it through discovery. However, the utilities do have an understanding of the behavior of the retail class and the bases for retail rate loads and structures. Since it is possible to perform an adequate cost study based on very rough load estimates, and since the utility is in a far better position to make these estimates, the Commission believes that the practical way of proceeding is to place on the utility the task of quantifying the cost differences. After the utility presents its case, the person alleging price squeeze will be required to rebut the utility's showing that the difference in rates is cost justified, in order to prevail on the merits.

In addition, the Commission feels that the requirement in the *prima facie* case to show that the price discrimination is of sufficient magnitude and duration so as to reasonably indicate an anticompetitive effect, discussed below, makes the burden of going forward sufficiently stringent to preclude frivolous claims. The Commission specifically requests comments on this subject.

The Commission does not require the use of any particular methodology to prove or disprove price discrimination. Possible methods include, but are not limited to, the following: wholesale versus retail average revenues; application of retail rates to wholesale billing determinants (so long as the ratio of billing demands to allocation demands of the retail group is similar to that of the wholesale group or an adjustment is made to put the two groups on the same basis); comparison of revenues at various load curves; comparison of overall rates of return; and the transfer price analysis. Each of these methods has advantages and disadvantages. The Commission will determine whether the method employed in any particular proceeding was sufficient to demonstrate price discrimination, based upon the record of that proceeding.

If, in presenting its case, a utility offers a rate of return analysis demonstrating that there is not a lesser rate of return on the relevant retail class than on the wholesale class, this demonstration will constitute an affirmative defense.

However, in attempting to prove that a difference in rates is cost-justified, a utility should assure that any cost comparisons it presents compute costs on the wholesale and retail side in the same manner and, to the extent possible, in the manner followed by the Commission. Without such synchronized computations, it may be difficult for the Commission to draw meaningful conclusions from the data presented. (*Southern California Edison Company.*) In addition, as the Commission stated in *Southern California Edison* and in *Commonwealth Edison Company,* cost differences should be quantified; that is, the utility should show how much of the difference in rates is accounted for by the different cost factors. A generalized showing is insufficient. However, if the utility lacks the requisite data on costs of serving the relevant retail class, it may use estimates in performing its full cost study.

B. Anticompetitive Effect

If price discrimination is established, the Commission must determine whether there has been, or could be, an anticompetitive effect. In this regard, two concepts, competition and anticompetitive effect, require consideration and definition. Although the two terms are necessarily related, it is important to consider each one separately and to determine the type of showing, if any, which is required to establish its existence.

In *Connecticut Light and Power Company,* Docket No. ER78–517 (August 20, 1979), the Commission reiterated the assumption that it had stated in *Missouri Power and Light,* Opinion No. 31–A, that the electric industry is an industry in which competition exists. In *Connecticut,* the Commission concluded that the concept of competition in the electric industry should not be confined to cases in which active rivalry among alternative suppliers can be demonstrated. The characteristics essential to the existence of competition are geographic proximity and the ability of the wholesale customer and the filing utility to be alternative suppliers of the same product for an individual customer or group of customers. Accordingly, the Commission held in *Connecticut* that the only showing required for the establishment of a *prima facie* case as to competition is that the wholesale customer and the filing utility are in geographic proximity and that they are or could be alternate suppliers. The Commission stated that such a showing could be challenged.

The Commission recognizes that if the relevant form of competition is franchise competition, certain requirements of the *prima facie* case may not be precisely applicable. This is so because franchise competition involves competition for all types of electric service. There is no single retail rate that corresponds to all types of retail loads. Consequently, those elements of a *prima facie* case which require specification of the effective retail rate schedule and a comparison of the effective retail rate with the relevant wholesale rate are difficult to establish when franchise competition is alleged. The Commission intends that the presiding judge would take this difficulty into consideration when determining whether the person alleging price squeeze has met the burden of going forward on the price squeeze issue.

In *Connecticut,* the Commission also decided that the person alleging price squeeze must allege the form of competition which was purportedly being harmed. Competition for individual customers or customer groups, franchise competition and fringe area competition were all held to be relevant forms of competition. The requirement of alleging the form of

competition involved was imposed to aid the utility in the event that it seeks to rebut the showing of competition.

In *Connecticut* the Commission considered whether a person alleging price squeeze must show actual anticompetitive effect due to the alleged price discrimination or whether a showing of a potential anticompetitive effect is sufficient. The antitrust laws and federal case law on the subject [3] have stated that the concern of Congress in passing the antitrust laws was with "probabilities not certainties" and that the intent is to "reach such discriminations in their incipiency." However, the courts have also made clear that "potential" does not refer to a "mere possibility", but rather to a "reasonable probability". *See, e.g., Brown Shoe Co.* v. *United States,* 370 U.S. 294 (1962); *Corn Products Refining Co.* v. *Federal Trade Commission,* 324 U.S. 726 (1945); and *Forgett* v. *Scharf,* 181 F.2d 754 (3d Cir.), *cert. denied,* 340 U.S. 825 (1950). The Commission further held in *Connecticut* that if the *prima facie* requirements of competition and price discrimination are satisfied, it is reasonable to presume that there is a potential anticompetitive effect, subject to the utility's right to rebut this presumption.

Even though a rebuttable presumption of anticompetitive effect has been established with respect to the case-in-chief, the Commission believes that, in order to meet its burden of going forward in the *prima facie* case, a person alleging price squeeze should be required to show that the price discrimination is of sufficient magnitude that an anticompetitive effect is indicated. Further, the Commission believes that, if more than one retail rate has been in effect during the pendency of the wholesale rate proceeding, the person alleging price squeeze should be required to show that the price discrimination with respect to each effective retail rate that is alleged to cause discrimination is of sufficient magnitude and duration that an anticompetitive effect is indicated. Duration in this context refers to the time period during which the proposed wholesale rate and the effective retail rate (or rates) are in effect concurrently. The purpose of these requirements in the *prima facie* case is, in view of the minimal showings required to meet the *prima facie* requirement on price discrimination, to preclude the possibility of a utility's being forced to defend against a frivolous claim. The Commission recognizes that the duration requirement may be difficult to show in an unphased proceeding. Section 35.30 provides that any participant may submit pleadings in support of, or in opposition to, the *prima facie* case, thus providing the utility with the opportunity to argue that the price discrimination is so small or short-lived that there is no potential for an anticompetitive effect. The presiding judge has the authority to determine that the *prima facie* case has not been satisfied because the potential for an anticompetitive effect is *de minimis.*

The Commission specifically asks for comments on the advisability of including in the *prima facie* case a statement or demonstration by wholesale customers that they cannot secure like power from an alternative source at an ultimate price equal to or lower than the price which their current bulk power supplier would be charging absent price discrimination. It would appear that a bulk power supplier's price discrimination would have no anticompetitive effect if the customer could avoid having to pay the discriminatory price. Of course, if the alternative bulk power supplier is not directly interconnected with the customer, then the willingness of intervening systems to wheel and the price at which they would do so, as well as the reliability of the service or the assurance of continued supply, would have to be taken into account.

The proposed rule contains no mention of this consideration. Nonetheless, a utility could include a showing of the availability of alternative power at a suitable price in its case in response to a price squeeze allegation so as to rebut any presumption of anticompetitive effect. It might be considered more appropriate, however, for the party alleging price squeeze to make a statement of showing that appropriately-priced power from an alternative source is not available. One of the factors militating towards placing this obligation on the party alleging price squeeze is the Commission's belief that wholesale customers should be continually testing the market and searching for cheaper or more reliable sources of power. It follows from this assumption that the wholesale customer would be in a better position to describe its bulk power supply alternatives than would the present bulk power supplier. On the other hand, raising this consideration in every price squeeze proceeding through its inclusion in the *prima facie* case may add a great deal to the time and expense of these proceedings, and the Commission may ultimately conclude that these resources have been wasted because this consideration is of no importance in the great majority of cases. The Commission requests comments on whether such a showing should be made as part of a price squeeze case; on the which party should be required to make such a showing; and on what type of evidence should constitute the demonstration.

The final consideration pertaining to anticompetitive effect is whether the ownership characteristics of the wholesale customer are relevant to a determination of anticompetitive effect. In *Boston Edison Company,* Opinion No. 809–A (December 9, 1977), the Commission specifically posed the question, "In determining the existence of anticompetive effect, what significance is there, if any, that publicly-owned utilities may be involved?" In *Commonwealth Edison Company,* the Commission found that it was irrelevant that a wholesale customer may be a municipality or a cooperative and may therefore have some tax or other advantages which are not available to the filing utility. Any competitive or other advantages that have been accorded to municipalities or cooperatives have been granted by the Congress or the state legislatures. Regulation should not reverse legislative intent.

Furthermore, in *Southern California Edison* the Commission noted that the crucial element in a price squeeze case is that the wholesale rates are discriminatory. Whether a wholesale customer has or has not been forced to pass these higher costs on to its customers is immaterial to a finding of price squeeze, since the impairment of the municipal customer's retail competitive advantages would itself be an anticompetitive effect.

C. Undue Discrimination

If the Commission determines that there is price discrimination and a potential for an anticompetitive effect, there is price squeeze. A rebuttable presumption then arises that the wholesale rate is unduly discriminatory. The Commission shall find that the price squeeze constitutes undue discrimination, unless countervailing public policy or factual considerations cause the Commission to conclude that the discrimination is not undue. *Missouri Power and Light Company,* Opinion No. 31. Such considerations include, but are not limited to: adequacy of service, reliability, financial integrity, the length of time the price squeeze existed, the extent of price

[3] The Commission does not have the responsibility to enforce the antitrust laws. It does, however, consider the policies underlying those laws in carrying out its regulatory responsibilities.

discrimination, and regulatory actions and policies of state commissions.

With respect to the regulatory actions and policies of state commissions, many utilities have claimed that, even if the effective retail rate is discriminatorily low when compared with the wholesale rate, price squeeze cannot be found because the low retail rate was set by the state public service commission ("the state action doctrine"). In *Parker v. Brown*, 317 U.S. 341 (1943), the Supreme Court held that the actions of state officials which would violate the antitrust laws if carried out by private persons are not violative of the Sherman Act if done according to the direction of the legislature. The Commission has determined that the "state action doctrine" cannot be relied upon as an absolute defense in cases in which all or a part of the discrimination is due to differing regulatory policies. As the Commission noted in *Southern California Edison*, the doctrine does not necessarily grant immunization in every case in which part of the discrimination can be traced to action of the state. To be granted such immunity, the action of the state must be so dominant as to make it unfair to hold the utility liable. If, however, it is found that the conflicting regulatory policies of the Commission and the state commissions have caused the price squeeze, it may well be concluded that the discrimination is not undue.

In *Missouri Power and Light Company*, Opinion No. 31, the Commission held that the filing utility's intent to discriminate in order to gain competitive advantage was irrelevant to a determination of price squeeze, as well as to any determination made regarding the correction of price squeeze. The Federal Power Act, as interpreted by *Conway*, requires the Commission to consider the existence of undue discrimination between retail and wholesale service in setting a just and reasonable rate regardless of whether or not that discrimination was intentionally imposed. Therefore, no showing of intent to create a price squeeze is required.

As previously noted, under the Federal Power Act, the Commission's only mechanisms for correction are the ordering of refunds and prospective rate relief. However, as stated in *Conway*, refunds can go beyond the Commission's normal cost of service adjustments at least to the lower end of the "zone of reasonableness."

III. Summary of the Proposed Regulations

The proposed rule incorporates the Commission's decisions and conclusions explained above. This section of the preamble discusses the specific provisions of the proposed rule.

Paragraph (a) of proposed § 35.32 provides that this section sets forth the substantive provisions applicable to Commission proceedings involving the determination of a price squeeze issue pertaining to electric utilities.

Paragraph (b) contains definitions applicable to this section and to new § 35.30. This paragraph defines the following terms: "anticompetitive effect", "competition", "franchise competition", "price discrimination", "phase", "preliminary just and reasonable wholesale rate", and "price squeeze". Several of these terms will be discussed below in the context of the paragraphs which use the terms.

Paragraph (c) provides that a person alleging price squeeze must support its allegations by filing a *prima facie* case. Subparagraphs (1) through (4) of pargraph (c) establish the requirements of a *prima facie* case, which requirements must be met if consideration of the price squeeze issue is to continue.

Subparagraph (1) of paragraph (c) sets forth the first requirement of the *prima facie* case, which is the specification of the utility's effective retail rate schedule or schedules which the person alleges is relevant to the price squeeze.

Subparagraph (2) of paragraph (c) establishes the second requirement of the *prima facie* case, which is a showing that there is enough evidence that price discrimination exists to warrant going forward with the proceeding. Consistent with the definition of price discrimination in paragraphs (b)(2), paragraph (c)(2)(ii) establishes that a person alleging price squeeze must show price discrimination in one of three ways as part of the *prima facie* case. Subparagraph (2)(ii)(A) or paragraph (c) provides that price discrimination may be shown by demonstrating that the wholesale rate is higher than the utility's retail rate for the relevant group of customers. Subparagraph (2)(ii)(B) provides that, if the wholesale rate is equal to the utility's retail rate for the relevant group of customers, price discrimination may be shown by demonstrating that there is a reasonable indication that the costs of serving those retail customers are greater than the costs of serving the wholesale customer. Finally, subparagraph (2)(ii)(C) provides that, if the wholesale rate is less than the utility's retail rate for the relevant group of cutomers, price discrimination may be shown by demonstrating that there is a reasonable indication that the costs of serving those customers are sufficiently greater than the costs of serving the wholesale customer, so that price discrimination exists against the wholesale customer. Accordingly, for purposes of the *prima facie* case, the person alleging price squeeze may demonstrate price discrimination by submitting a straight rate comparison on the assumption that the costs to serve the wholesale and retail customers are similar or by submitting a price/cost comparison for the wholesale and retail customers, respectively. If the price/cost comparison is made, the person alleging a price squeeze need only show, in the *prima facie* case, that one or more cost determining factors indicate that price discrimination exists, without specifically quantifying the costs. For example, in subparagraphs (2)(ii)(B) and (C), the person alleging price squeeze could show that distribution costs for the relevant group of retail customers were sufficiently high that, if the rates were adjusted to account for distribution costs, the wholesale rate would be higher than the retail rate.

Section 2.17 requires "as showing that the retail rates are lower than the proposed wholesale rate for comparable service," as one of the elements of a *prima facie* case. The proposed rule differs from § 2.17 in that the person alleging price squeeze under the proposed rule has the latitude to show price discrimination when service is not similar.

Subparagraph (2)(i) of paragraph (c) establishes the rates which are to be compared for purposes of the *prima facie* showing of price discrimination under subparagraph (2)(ii). Subparagraph (2)(i) provides that if the proceeding is phased in accordance with § 35.30, the effective retail rate shall be compared with the wholesale rate which the Commission determines to be just and reasonable after consideration of all issues in the proceeding except price squeeqe (the "preliminary just and reasonable wholesale rate," defined in paragraph (b)(7)). If the price squeeze issue is not to be considered in a separate phase, subparagraph (2)(i)(B) provides that the effective retail rate shall be compared with the proposed wholesale rate. In that situation, the rate used for comparison in the Commission's final decision will be the wholesale rate as adjusted by determinations on issues other than price squeeze.

Subparagraph (3) of paragraph (c) establishes the third requirement of a *prima facie* case, consisting of a showing that competition exists between the utility and the wholesale customer, a statement of the form of competition which is being harmed, and the specification and explanation of the

group of customers for which competition exists. The person alleging price squeeze must show that competition exists by showing that the wholesale customer is in geographic proximity to the electric utility and that the wholesale customer is, or could be an alternate supplier to the group of customers. The person must also state whether the purported competition is franchise competition (defined in paragraph (b)(5)) or competition for individual customers, including fringe areas. The subparagraph further requires that the person alleging price squeeze identify the specified group or groups of customers for whom the type of competition exists and explain the basis of the determination that the specified group is the object of competition and other retail groups are not.

The proposed rule differs from § 2.17 in that the proposed rule requires only a showing of geographic proximity and that the customer is or could be an alternative supplier of electricity to the relevant customers. The proposed rule also contains the additional showings relating to the form of competition involved and the customers who are the object of the competition, which were not required by § 2.17.

The fourth requirement of the *prima facie* case is set forth in paragraph (c)(4) which states that the person alleging a price squeeze must show that the magnitude, and in certain cases the duration, of the price discrimination indicate that there is a potential for an anticompetitive effect.

The final requirement of the *prima facie* case is established in paragraph (c)(5) which provides that the person alleging price squeeze must indicate the reduction in the wholesale rate which is necessary to eliminate the price squeeze. The proposed rule is similar to § 2.17 in this respect.

As part of a *prima facie* case, § 2.17(a)(4) requires a showing of "the wholesale customer's prospective rate for comparable service, i.e., the rate necessary to recover bulk power costs (at the proposed wholesale rate) and distribution costs." This requirement has not been included in the proposed rule, because the Commission has determined that, consistent with its decision as to the ownership characteristics of the wholesale customer, it is irrelevant to a determination of price squeeze.

The requirements of the *prima facie* case in § 2.17 are more stringent than the ones contained in the proposed rule, both with respect to the price discrimination and the competition showings. As the Commission noted in *Connecticut Light and Power*, the minimal showing of competition now necessary should shift the focus in price squeeze cases from proving competition to showings on the price discrimination issue. For this reason, the Commission cautions against exclusive reliance on the price discrimination aspect of the *prima facie* case by the person alleging price squeeze. More may be required of the person in cases in which the utility offers evidence in its case that the rates are not unduly discriminatory.

Paragraph (d) establishes that in proving or disproving price discrimination in the *prima facie* case or in the full case, the Commission does not require the use of any particular methodology.

Paragraph (e) provides that certain rebuttable presumptions arise from the satisfaction of certain of the requirements of the *prima facie* case. Subparagraph (1) of paragraph (e) provides that if the requirements of the *prima facie* case as specified in paragraph (c) are satisfied, a rebuttable presumption arises that price discrimination with an anticompetitive effect (price squeeze) exists.

Subparagraph (2) of paragraph (e) establishes that, if price squeeze is found, a presumption arises that the rate is unduly discriminatory. In determining whether the wholesale rate is unduly discriminatory, the Commission may consider countervailing public policy and factual considerations, including: adequacy of service, reliability, financial integrity, length of time the price squeeze existed; the extent of the price squeeze; and the regulatory actions and policies of state commissions.

Paragraph (f) sets forth provisions applicable to the utility's case. Subparagraph (1) provides that if the utility's case is based upon the difference in the costs of serving the retail and wholesale customers, the utility must quantify the differences in its total costs, including distribution costs, if any, between the wholesale and pertinent retail services. However, as discussed above, if the utility lacks the requisite data on costs of serving the relevant retail class, it may use estimates in performing its full cost study. Subparagraph (2) sets forth the affirmative defenses available to the utility. Clause (i) establishes that, if the utility presents a rate of return analysis that shows that the rate of return for the pertinent retail service or services is not lower than the rate of return on the pertinent wholesale service or services, that showing shall constitute an affirmative defense. Clause (ii) provides that, if the utility can show that the wholesale customer could not be an alternative supplier to the utility for the group of customers who are the object of the competition, that showing shall constitute an affirmative defense.

Paragraph (g) establishes which participant in the proceeding bears the burden of proof. Subparagraph (1) provides that in the case of a proposed wholesale rate increase, if a *prima facie* case has been made in accordance with paragraph (c) and § 35.30, the utility shall bear the burden of proof to justify the wholesale rate as not unduly discriminatory. In contrast, subparagraph (2) places the burden of proof on the person alleging price squeeze in the case of an initial rate filed under § 35.12 and in the case of a complaint proceeding conducted pursuant to section 206 of the Federal Power Act.

Paragraph (h) provides that a finding of undue discrimination shall require remedial action by the Commission.

IV. Application of Regulations to Proceedings to the Natural Gas Industry

Commission proceedings in which price squeeze has been an issue have been almost exclusively proceedings involving the electric utility industry. Accordingly, the proposed rule would pertain only to the electric industry. However, the Commission specifically solicits comments from members of the public on whether the regulations contained in the proposed rule should also be made applicable to the natural gas industry.

V. Public Comments and Public Hearing

The Commission invites interested persons to submit written data, views, and other information with respect to the matters set forth in this notice. All comments should be verified and should reference Docket No. RM79–80 and should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An original and 14 conformed copies should be filed. All comments received by December 24, 1979, will be considered by the Commission prior to promulgation of the final regulations.

All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during regular business hours.

The Commission intends to conduct a public hearing on the matters contained in this notice and in the companion notice (Docket No. RM79–79). The members of the panel at that hearing will be designated by the Chairman of

the Commission. The date, location and procedures will be announced in the near future.

(Federal Power Act, 16 U.S.C. § 791–828c; Department of Energy Organization Act, 42 U.S.C. § 7101–7352; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, the Commission is proposing to amend Part 35 of Chapter 1, Title 18, Code of Federal Regulations as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 35—FILING OF RATE SCHEDULES

1. Part 35 is amended in the table of contents by adding in the appropriate numerical order a heading for § 35.30 to read as follows:

§ 35.32 Price squeeze—Substantive rules.

2. Part 35 is further amended by adding a new § 35.32 to read as follows:

§ 35.32 Price squeeze—substantive rules.

(a) *Applicability.* This section sets forth the substantive provisions applicable to Commission proceedings involving the determination of a price squeeze issue pertaining to electric utilities.

(b) *Definitions.* For purposes of this section and § 35.30, the following definitions apply.

(1) "Price squeeze" means price discrimination between a utility's wholesale and retail rates with an anticompetitive effect.

(2) "Price discrimination" means that the relationship of the wholesale rate to the wholesale costs is greater than the relationship of the relevant retail rate to the retail costs. "Relationship" means either the ratio of rates to costs or the difference between rates and costs.

(3) "Anticompetitive effect" means the actual or potential impairment, as a result of price discrimination on the part of an electric utility, of the utility's wholesale customer's ability to make sales of the same or similar products to a retail customer or type of retail customer that could also be served by the utility. "Potential" means a reasonable probability, not a mere possibility.

(4) "Competition" means the actual or potential ability of an electric utility and its wholesale customer to serve as alternate suppliers of the same or similar products to the same retail customer or type of retail customer.

(5) "Franchise competition" means the right to provide electric service to all customers in an entire area.

(6) "Phase" means a portion of a proceeding in which only certain issues in the proceeding are considered or in which certain issues in the proceeding are excluded from consideration.

(7) "Preliminary just and reasonable wholesale rate" means the wholesale rate that is found to be just and reasonable by the Commission after completion of the phase or phases preceding the price squeeze phase of the proceeding.

(c) *Prime facie case.* Except as provided in § 35.30(h)(8), any person alleging a price squeeze under this section must support the allegation by filing a *prime facie* case, which shall include the items listed in subparagraphs (c)(1) through (c)(4) of this paragraph.

(1) The person shall specify the utility's effective retail rate schedule or schedules that the person alleges are relevant to the issue of price squeeze.

(2) The person shall submit evidence on price discrimination in accordance with paragraphs (c)(2)(i) and (c)(2)(ii) of this subparagraph.

(i) The person shall compare the effective retail rate or rates with:

(A) The preliminary just and reasonable wholesale rate, if the price squeeze issue is to be considered in a separate phase in accordance with § 35.30;

(B) The proposed wholesale rate, if the price squeeze issue is not to be considered in a separate phase of the proceeding, in accordance with § 35.30, but the Commission's final decision will be based on the wholesale rate as adjusted by its cost of service determinations.

(ii) The person shall demonstrate that:

(A) The wholesale rate is higher than the utility's retail rate for the group of retail customers who are the object of competition;

(B) If the wholesale rate is equal to the utility's retail rate for the group of retail customers who are the object of competition, there is a reasonale indication that the costs of serving those retail customers are greater than the costs of serving the wholesale customers;

(C) If the wholesale rate is less than the utility's retail rate for the group of retail customers who are the object of competition, there is a reasonable indiction that the costs of serving those retail customers are sufficiently greater than the costs of serving the wholesale customer that there is price discrimination against the wholesale customer.

(3) The person shall submit evidence on competition in accordance with paragraphs (c)(3)(i) and (c)(3)(ii) of this subparagraph.

(i) The person shall demonstrate the existence of competition by showing:

(A) That the wholesale customer is in geographic proximity to the utility; and

(B) That the wholesale customer is or could be an alternative supplier of electricity to the group of retail customers (a retail class or a part of a retail class) for which there is competition.

(ii) The person must also:

(A) State whether the purported competition is franchise competition or competition for individual customers, including fringe areas; and

(B) Specify the group of customers for which there is competition, explaining why the specified group was determined to be the object of the competition and why other retail groups were not.

(4) The person shall show that the magnitude of the price discrimination indicates that there is a potential for an anticompetitive effect. If more than one retail rate has been in effect during the pendency of the wholesale rate proceeding, the person shall state the magnitude and duration of the price discrimination with respect to each effective retail rate which is alleged to cause the discrimination and show that the magnitude and duration of the price discrimination under such retail rate or rates is sufficient to indicate that there is a potential for an anticompetitive effect.

(5) The person shall indicate the reduction in the wholesale rate which is necessary to eliminate the alleged price discrimination.

(d) *Methodology to show price discrimination.* No particular methodology shall be required to be used to demonstrate the presence or absence of price discrimination.

(e) *Rebuttable presumptions.* The following rebuttable presumptions exist.

(1) If the *prima facie* has been made in accordance with paragraph (c) and § 35.30, a rebuttable presumption arises that price discrimination with an anticompetitive effect (price squeeze) exists.

(2) A finding of price squeeze shall create a rebuttable presumption that the wholesale rate is unduly discriminatory. In determining whether the wholesale rate is unduly discriminatory the Commission may consider countervailing public policy and the factual circumstances.

(f) *Utility's case.* This paragraph is applicable to the utility which filed the proposed rates under § 35.13 or § 35.12 or whose rates are the subject of the proceeding conducted pursuant to section 206 of the Federal Power Act.

(1) If the utility's case is based in part or in whole upon the difference in the

costs of serving the retail and wholesale customers, the utility must quantify the differences in total costs, including distribution costs, if any, between the wholesale and pertinent retail services.

(2) The following showings constitute affirmative defenses for the utility.

(i) If the utility presents a rate of return analysis that shows that the rate of return for the pertinent retail service or services is not lower than the rate of return for the pertinent wholesale service or services, that showing shall constitute an affirmative defense.

(ii) If the utility shows that the wholesale customer could not be an alternative supplier to the utility for the group of customers who are the object of the competition, that showing shall constitute an affirmative defense.

(g) *Burden of proof.* (1) In the case of a proposed wholesale rate increase, if a *prima facie* case has been made in accordance with paragraph (c) and § 35.30, the utility shall have the burden of proof (*i.e.*, the risk of nonpersuasion) to justify that the wholesale rate is not unduly discriminatory.

(2) In the cases of an initial rate filed under § 35.12 or of a complaint proceeding conducted pursuant to section 206 of the Federal Power Act, the person alleging price squeeze shall have the burden of proof to show that the wholesale rate is unduly discriminatory.

(h) *Remedy.* A finding of undue discrimination shall require such remedial action as the Commission deems appropriate.

[FR Doc. 79-36199 Filed 11-21-79; 8:45 am]
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18 CFR Parts 280 and 284

[Docket No. RM80-11]

Statement of Policy on Distributor Access to Outer Continental Shelf Gas; Proposed Rulemaking

Issued: November 16, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 603 of the Outer Continental Shelf Lands Act Amendments of 1978 requires the Commission to promulgate a statement of general policy concerning the transportation of natural gas owned by a local distribution company from an outer continental shelf lease to the service area of the local distribution company. The proposed rule specifies the application procedures, forms of authorization, and terms and conditions which would apply to such transportation.

DATES: Written Comments by December 10, 1979. Public Hearing on December 10, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (Reference Docket No. RM80-11).

FOR FURTHER INFORMATION CONTACT:

Robert C. Platt, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8454.
Charles W. Strotman, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-9028.

I. Discussion

On September 18, 1978, the Outer Continental Shelf Lands Act Amendments of 1978 (OCSLAA), Pub. L. 95-372, 43 U.S.C. 1801, *et seq.*, became law. Section 603 of the OCSLAA requires the Commission to promulgate a statement of general policy concerning the transportation of natural gas owned by a local distribution company from an Outer Continental Shelf (OCS) lease to the service areas of the local distribution company.

Traditionally, local distribution companies have relied upon pipeline system supplies to meet their requirements. However, as curtailment deepened on interstate pipelines during the 1970's, many local distribution companies were forced to resort to expensive "self-help" measures in order to protect their high priority users. Local distribution companies frequently incurred substantial take-or-pay obligations when contracting for supplemental supplies. In addition, supplemental facilities such as LNG peak shaving plants and SNG plants require extensive capital investment. Further, those measures included purchasing imported LNG or SNG made from imported oil, and the purchase of such supplemental supplies contributes to the nation's balance of payments problems. In contrast, the direct investment in domestic OCS reserves (OCS gas) permits the local distribution companies to obtain secure supplemental supplies while avoiding many of the adverse consequences of alternative investments.

Permitting local distribution companies to have the option of investing some of their available capital in the development of OCS gas is consistent with the public interest. This would assure that the high priority markets served by local distribution companies will have access to domestic energy supplies developed from the public lands. This Notice of Proposed Rulemaking presents the Commission's views on a desirable long term policy regarding local distribution company participation in the development and production of OCS gas. This Notice also discusses a series of issues that arises from local distribution company participation in the OCS.

A. Advance Notice of Policy

Section 603 of the OCSLAA was prompted by the uncertainty that surrounds the terms upon which local distribution companies can develop their own OCS reserves. This uncertainty deters local distribution companies from investing in OCS exploration and development efforts. Because investment decisions must be made far in advance of the actual commencement of any transportation arrangements, the Commission will clarify the future availability of transportation of OCS gas to local distribution companies by providing a description of the eligibility criteria, limitations and conditions which the Commission will attach to the transportation.

The only recent case which authorized the transportation of local distribution company produced OCS gas illustrates the Commission's policy to date on the transportation of such natural gas. Initially, the Commission denied an application for a transportation certificate, citing the greater need of the transporting pipeline's customers over the local distribution company's customers.[1] The comparative end-use of the two sets of customers was the basis for assessing the public convenience and necessity of the proposed transaction. On rehearing, the transportation was authorized subject to the diversion of the OCS gas into the system supplies of the transporting pipelines, if needed to avoid irreparable injury to life or property.[2]

The enactment of the Natural Gas Policy Act of 1978 (NGPA), Pub. L. 95-621, 15 U.S.C. § 3301 *et seq.*, has alleviated many of the concerns that prompted the Commission's imposition of certificate conditions in the above case. First, the general curtailment

[1] Trunkline Gas Company, Order issued January 11, 1977 in Docket No. CP74-322, *et al.* (Trunkline was transporting OCS gas produced by Northern Michigan Exploration Co. to its parent, Consumers Power Company.)

[2] Order Granting Rehearing and Granting Certificates of Public Convenience and Necessity, Docket No. CP74-322, *et al.*, issued November 10, 1977.

outlook for interstate system supplies has improved.[3] Second, local distribution companies served by interstate pipelines may now purchase significant volumes of natural gas from the intrastate market under sections 311(b) and 312 of the NGPA. Third, section 311(a) of the NGPA provides the Commission with greater flexibility in authorizing transportation on behalf of local distribution companies than available under the Natural Gas Act. In light of these changes, the Commission need not continue a restrictive policy which was adopted to mediate between competing demands for a limited supply of natural gas available to the interstate market.

The Commission proposes to instead focus its future policy upon the objective of placing local distribution companies on a more equal footing with other purchasers of natural gas supplies. Local distribution companies should not be at a disadvantage in the exploration and development of OCS gas.

B. Statutory Authority for Transportation

When the OCSLAA was enacted, section 7 of the Natural Gas Act was the Commission's only basis for authorizing transportation in interstate commerce. However, section 311(a) of the NGPA gave the Commission an additional basis for authorizing transportation arrangements. Given the superseding enactment of the NGPA, the Commission considers the use of section 311(a) of the NGPA to be consistent with the legislative intent of both the OCSLAA and NGPA. Because the NGPA did not specifically amend section 603 of the OCSLAA, the Commission is prepared to utilize both section 311(a) of the NGPA as well as section 7(c) of the Natural Gas Act to authorize those transactions. Because of the greater flexibility afforded by section 311(a) of the NGPA, the Commission prefers to use that section to implement the transportation specified in section 603 of the OCSLAA rather than section 7(c) of the Natural Gas Act. The selection of either legal authority is left to the applicant.

C. Pipeline Participation

The Commission is aware that the entry of local distribution companies into the competition for OCS leases changes their traditional relationship with interstate pipelines. Although the awarding of OCS leases is the responsibility of the Department of the Interior and not the Commission, the allocation of the limited capacity of interstate pipeline lies within the scope of our concerns.

Section 603(b)(1) of the OCSLAA refers to "the application of any local distribution company." Some commentators may argue that this phrase implies that the local distribution company may apply to the Commission for a certificate without the consent of the transporting pipeline. However, neither the statute nor the legislative history explain the local distribution company's role as a certificate applicant.

The Commission invites comment upon the Commission's authority to grant otherwise eligible applications which are filed by a local distribution company without the concurrence of a transporting onshore interstate pipeline. Some onshore interstate pipelines have excess capacity which, although not being utilized to meet the needs of current customers, is being paid for by the pipeline ratepayers. The transportation of OCS gas on behalf of local distribution companies offers onshore interstate pipelines an opportunity to utilize unused capacity and to reduce the burden upon their ratepayers.[4] If an interstate pipeline is unwilling to avail itself of such opportunities, the question arises whether this Commission can compel the transportation and, if so, under what terms and conditions as will assure that the present and future convenience and necessity is served.

It should be noted, in contrast, that section 5 of the Outer Continental Shelf Lands Act,[5] gives the Commission authority to require offshore pipelines to transport OCS gas owned by local distribution companies on the same basis as OCS gas owned by interstate pipelines. The Commission invites comment upon possible means of resolving disputes between local distribution companies that seek to develop supplemental OCS supplies and interstate pipelines which do not wish to transport the OCS gas. In particular, the Commission invites comment upon the use of the Commisson's authority under section 7(a) of the Natural Gas Act to compel pipeline participation.

D. Term

Because of the local distribution company's need to amortize exploration and development costs, the term of most covered transportation arrangements will probably exceed two years. The proposed rule does not affect the term provisions which apply generally to transportation authorized under section 311(a) of the NGPA. Such transportation is authorized for a two year term on a self-implementing basis.[6] Longer term transportation arrangements are permitted only with prior Commission approval.[7]

The Commission will consider applications for certificates authorizations of either a fixed or indefinite term under section 7(c).

E. Incremental Pricing

All first sales of OCS gas are subject to the incremental pricing provisions of Title II of the NGPA. Section 204(c)(4) of teh NGPA requires a local distribution company which purchases OCS gas in a first sale to be treated as an interstate pipeline for the purpose of computing the incremental pricing of the natural gas. To the extent that the local distribution company produces natural gas without creating a separate affiliate, the natural gas would not be subject to incremental pricing.

F. End Use Restrictions

As discussed in Section A, *supra*, the Commission in the past has conditioned the transportation of OCS gas upon diversion into the system supply of the transporting pipeline when needed to serve high priority requirements. However, the President's authority during declared natural gas supply emergencies under Title III of the NGPA removes the need for such conditions. Instead, the OCS gas transported pursuant to this subpart will be outside the scope of the transporting pipeline's curtailment plan. Such an approach is in accord with the legislative history of section 603 of the OCSLAA:

> The ad hoc committee's report points out the need to insulate this gas from the curtailment system of the interstate pipeline which transports this gas in order that the local distribution company can justify the investment in developing its own resources on the grounds that it will be assured of receiving the gas. Under present law, this result is already reached.[8]

The Commission invites comment upon the treatment of these volumes during declared natural gas supply emergencies.

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[3] Commission Staff Reports on Impact of 1979–1980 Winter Curtailment for Twenty-Eight Pipeline Companies, Docket No. TC79-94, *et al.*, November 1979.

[4] Section 284.103(d) requires revenues in excess of out-of-pocket costs to be flowed through to the ratepayers in Account 191.

[5] Pub. L. 83-212, 43 U.S.C. § 1334, as amended by section 204 of the OCSLAA.

[6] 18 C.F.R. § 284.104(b). Such arrangements are subject to renewal under § 284.105.

[7] Section 284.107.

[8] 124 Cong. Record at H205, January 25, 1978.

II. Section-by-Section Analysis

Section 280.101

This section is amended to include a definition of the abbreviation "OCS."

Section 284.240

This section emphasizes the fact that the natural gas transported under Subpart H must be for a local distribution company's general system supply.

Only transportation of the natural gas by interstate pipelines is covered. (By virtue of section 601(a)(1)(B)(ii) of the NGPA, no Commission authorization is required for the sale of the natural gas from a new OCS lease to the local distribution company.) Although Subpart H describes the Commission's policy, the subpart does not authorize any transportation independent of other regulations.

Section 284.242

The definition of "eligible recipient" in proposed paragraph (c) describes who is eligible to participate in the program. Because the definition of local distribution company in section 603(c)(1) of the OCSLAA is different from that in section 2(17) of the NGPA, the term "eligible recipient" is defined to reflect the section 603 definition. It should be noted that if an eligible recipient does not also qualify as either a local distribution company or an intrastate pipeline, within the meaning of the NGPA, transportation cannot be authorized on its behalf under section 311(a) of the NGPA. Covered transportation outside the scope of section 311(a) would have to be authorized by a certificate issued pursuant to section 7(c) of the Natural Gas Act.

Section 603 of the OCSLAA is limited to OCS lease interests owned by local distribution companies. Under the proposed rule, the lease must be owned by either the local distribution company itself, a producing affiliate of the local distribution company, or a joint venture in which the local distribution company participates. (The local distribution company may participate in a joint venture through an affiliate.) Any sale between the lease holder and the eligible recipient is a "first sale" under the NGPA. If the eligible recipient produces the OCS gas, then § 270.203(b) governs the first sale status of any sales made by the eligible recipient.

The proposed definition of "eligible OCS natural gas" in paragraph (d) would include all natural gas produced from new leases as well as natural gas produced from interests in old leases acquired before the effective date of the statement of policy. The Commission is also considering the possibility of excluding all natural gas produced from old leases from the definition. The Commission invites comment upon an appropriate definition of "eligible OCS natural gas."

The definition of "covered transportation" excludes natural gas which does not enter the general system supply of an eligible recipient. Hence, Subpart H does not apply to the transportation of natural gas which is produced by an eligible joint venture for delivery to participants who are not eligible recipients.

The § 284.1(a) definition of "transportation" which includes backhaul, displacement and exchange will apply to the program instituted by their regulations.

Section 284.243

Paragraph (a) states the general rule governing which transportation arrangements will be authorized pursuant to this subpart. Transactions which do not meet these criteria are governed by § 284.247. As is the case in the Commission's direct sale program for essential agricultural and other high-priority users (Order No. 27), either an interstate pipeline or the eligible recipient applying on the pipeline's behalf may file the application with the Commission.

Paragraph (b) makes clear that the applicant may elect to file for authorization under either section 311(a) of the NGPA or section 7(c) of the Natural Gas Act. However, the abandonment jurisdiction of section 7(b) of the Natural Gas Act applies to any section 7(c) certificate. As a result, an applicant for authorization under section 7(c) may wish to seek a pregrant of abandonment as part of the application.

Section 284.244

This section prescribes filing requirements in addition to those applicable under Subparts A and B of this part or Part 157.

Section 284.245

This section specifies the terms and conditions which apply to covered transportation. Additional terms and conditions may be included in the order authorizing the transactions. In addition, the Commission would waive its right to prospectively impose further terms and conditions (see § 284.5) when appropriate.

Proposed paragraph (a) incorporates the terms and conditions of Subparts A and B of this Part for transactions authorized under either section 311(a) of the NGPA or section 7(c) of the Natural Gas Act.

Proposed paragraph (b) requires the OCS gas to be allocated according to the curtailment plan which governs the general system supply of the eligible recipient. This requirement reflects a concern expressed in the legislative history of section 603:

> [T]he intent of this section is to benefit local distribution companies only. It is designed to facilitate entry by such companies in the Outer Continental Shelf leasing so that they can distribute the proposed natural gas to their service areas only.[9]

If the local distribution company were allowed to assign the OCS gas to a specific end-user instead of incorporating the OCS gas into its system supply, this objective would not be met.

Section 284.246

The proposed rule does not disqualify interstate pipelines from transporting OCS gas on behalf of a local distribution company which is not an eligible recipient, under Subpart B of Part 284. The Commission will consider such transactions on a case-by-case basis. However, the policies proposed here do not apply to such transactions.

III. Environmental Considerations

The Commission finds that the issuance of a statement of policy, as proposed here, would not significantly affect the quality of the human environment.[10] The proposed rule is basically clarifying in nature and does not substantially change the effect of existing regulations.

IV. Written Comment Procedures

Interested persons are invited to submit written comments, data, views, or arguments with respect to this proposal. An original and fourteen (14) copies should be filed with the Secretary of the Commission. All comments received prior to December 10, 1979, will be considered by the Commission before promulgation of final regulations. All written submission will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public

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[9] S. Report No. 95-1091, 95th Cong. 2d Sess. (1978) at 158.

[10] We note that the Council on Environmental Quality has issued regulations implementing the National Environmental Policy Act (40 CFR 1501.4(a), 1508.4) which provide for identifying categories of actions which normally do not produce significant environmental effects and which therefore can be excluded from agency NEPA review. (See Notice of Proposed Rulemaking issued in Docket No. RM79-69 on August 20, 1979, 44 Fed. Reg. 50052 (August 27, 1979)).

Information, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E, Washington, D.C., 20426, and should reference Docket No. RM80–11.

V. Public Hearing Procedures

A public hearing concerning this proposal will be held in Washington, D.C. on December 3, 1979, beginning at 9:30 a.m. and will continue if necessary on the following day. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m., December 3, 1979.

Requests to participate in the hearing should include a reference to Docket No. RM80–11 and a number where the person making the request may be reached by telephone. Prior to the hearing, each person filing a request to participate will be contacted by the presiding officer or his designee for scheduling purposes. At least five (5) copies of the statement shall be submitted to the Secretary of the Commission prior to 4:00 p.m. on December 7, 1979. The presiding officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring twenty (20) copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel, whose members will be designated by the Chairman of the Commission may question such persons. In addition, any interested persons may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether a question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be anounced by the presiding officer at the hearing. A transcript of the hearing will be made available at the Commission's Office of Public Information.

(Natural Gas Policy Act of 1978, Pub. L. 95–621, 92 Stat. 3350, 15 U.S.C. § 3301, *et seq.*; Outer Continental Shelf Lands Act Amendments of 1978, Pub. L. 95–372, 43 U.S.C. § 1801, *et seq.*)

In consideration of the foregoing, Parts 280 and 284 of Subchapter I, Chapter I of Title 18, Code of Federal Regulations, are proposed to be amended as follows.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 280.101 is amended by adding a new subparagraph (2) in paragraph (b) to read as follows:

§ 280.101 Definitions

* * * * *

(b) *Other definitions.* For the purpose of this subchapter:

* * * * *

(2) "OCS" means the Outer Continental Shelf as defined in section 2(35) of the NGPA.

2. The table of contents for Part 284 is amended by the addition of a new Subpart H, to consist of sections 284.241 through 284.247:

Subpart H—Transportation of Natural Gas From the Outer Continental Shelf on Behalf of Local Distribution Companies

Sec.

284.241 Applicability.
284.242 Definitions.
284.243 General rule, criteria.
284.244 Application requirements.
284.245 Terms and conditions.
284.246 Other transportation of OCS natural gas.

3. Part 284 is amended by the addition of new subpart H to read as follows:

Subpart H—Transportation of Natural Gas From the Outer Continental Shelf on Behalf of Local Distribution Companies

§ 284.241 Applicability.

This subpart implements section 603 of the Outer Continental Shelf Lands Act Amendments of 1978 and applies to transportation of natural gas from certain OCS leases to a local distribution company for its general system supply.

§ 284.242 Definitions.

For the purposes of this subpart:

(a) "Producing affiliate" means any person which is:

(1) Exploring for, developing, or producing natural gas on the OCS;

(2) Controlled by a local distribution company; and

(3) Regulated, or operated as a public utility, by a state or local government or agency thereof.

(b) "Eligible joint venture" means an association formed for the purposes of purchasing, exploring, and developing an OCS lease in which an eligible recipient participates.

(c) An "eligible recipient" is a person engaged in the distribution of natural gas at retail and regulated, or operated as a public utility, by a state or local government or agency thereof.

(d) "Eligible OCS natural gas" means natural gas produced from the OCS pursuant to:

(1) A lease entered into on or after April 20, 1977, or

(2) An interest which was acquired before [effective date of rule,] in a lease which was entered into prior to April 20, 1977.

(e) "Eligible OCS producer" means:

(1) A producing affiliate of a local distribution company;

(2) An eligible recipient; or

(3) An eligible joint venture.

(f) "Covered transportation" means the transportation by an interstate pipeline of eligible OCS natural gas from an eligible OCS producer to an eligible recipient.

§ 284.243 General rule.

(a) *Applications.* Any interstate pipeline, or eligible recipient on behalf of an interstate pipeline, may file applications for covered transportation. The Commission will consider such applications on a priority basis if the following criteria are met:

(1) Eligible OCS natural gas is produced on a lease owned in whole or in part by an eligible recipient; and

(2) The eligible recipient will use all of the transported natural gas for its general system supply.

(b) *Election by applicant.* Covered transportation may be authorized under either section 311 of the NGPA or section 7(c) of the Natural Gas Act. The applicant shall elect the form of authorization at the time of filing an application. In either case, the covered transportation shall be subject to the terms and conditions of § 284.245.

§ 284.244 Application requirements.

An application for covered transportation shall include, in addition to the requirements of Part 157 of this chapter that implement section 7(c) of the Natural Gas Act or Subparts A and B of this part that implement section 311(a) of the NGPA, as appropriate, the following:

(a) A description of the lease under which the eligible OCS producer is exploring the OCS;

(b) A copy of the joint venture agreement, if any, to which the eligible OCS producer is a party;

(c) A copy of the contract(s) applicable to the transportation of the eligible OCS natural gas; and

(d) A copy of a document verifying that the eligible recipient is regulated as a public utility by a state or local authority.

§ 284.245 Terms and conditions.

(a) *General.* Covered transportation authorized under either section 7(c) of the Natural Gas Act or under section 311(a) of the NGPA shall be subject to the terms and conditions, rates and charges, and reporting requirements of Subparts A and B or this part (as amended from time to time).

(b) *Curtailment.* Natural gas transported pursuant to this subpart shall be subject to the terms of any currently effective curtailment plan which governs the allocation of natural gas from the general system supply of the eligible recipient.

§ 284.246 Other transportation of OCS natural gas.

A transportation arrangement involving natural gas produced from the OCS which does not comport with the criteria of this subpart may be:

(a) authorized on a self-implementing basis under Subpart B of this part; or

(b) considered on a case-by-case basis by the Commission for authorization under this subpart.

[FR Doc. 79-36066 Filed 11-21-79; 8:45 am]
BILLING CODE 6450-01-M

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18 CFR Part 282

[Docket No. RM80-10]

Rule Required Under Section 202 of the Natural Gas Policy Act of 1978; Proposed Rulemaking and Public Hearings

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking and Public Hearings.

SUMMARY: The Federal Energy Regulatory Commission hereby proposes regulations to implement section 202 of the Natural Gas Policy Act of 1978. Under the proposal, the incremental pricing program would be expanded on November 1, 1980, to include all industrial users of natural gas that are not granted an exemption from the program by statute. The final regulations to be adopted pursuant to this proposal will be subject to review by the Congress prior to their taking effect.

DATES: Comments: By January 31, 1980. Hearing dates: To be announced.

ADDRESSES: All comments to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426 (Reference Docket No. RM80-10). Hearing locations: to be announced.

FOR FURTHER INFORMATION CONTACT: Walter W. Schroeder, Executive Assistant to the Chairman, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8335.

Nancy E. Williams, Deputy Assistant General Counsel for Regulatory Development, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

November 15, 1979.

I. Introduction.

Title II of the Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621) requires that the Federal Energy Regulatory Commission (the Commission) promulgate regulations to channel a specified portion of the acquisition costs of natural gas to industrial users. The "incremental costs" of natural gas are to be passed through from the supplier to the industrial facility by means of a surcharge pricing mechanism.

Title II further requires that the incremental pricing program be inplemented in two phases. The first phase has been implemented by regulations that were issued by the Commission on September 28, 1979 (44 FR 57726, October 5, 1979). The regulations issued on September 28 were contained in two dockets, Docket Nos. RM79-14 and RM79-21. Under those regulations only large industrial facilities which use natural gas as a boiler fuel are subject to incremental pricing.

Section 202 of Title II requires the Commission to promulgate a second phase (Phase II) rule by May 9, 1980, which may extend the incremental pricing program to other (non-boiler) industrial users. This rule will be subject to Congressional review pursuant to the provisions of the NGPA. If either House votes to disapprove it, the rule promulgated by the Commission will not take effect.

For the reasons set forth below, the Commission has decided to propose a Phase II rule that would broaden the scope of incremental pricing to include all industrial users other than those specifically exempted by Title II. Further, the Commission proposes that the Phase II rule incorporate the same three-tier alternative fuel ceiling approach adopted in the Phase I regulations. The Commission also proposes that the Phase II regulations retain the mechanism for calculating and billing incremental pricing surcharges, commonly referred to as the "reduced PGA" approach, that was developed and finalized under the Phase I program. Finally, the Commission proposes that the "adjustments" procedure available pursuant to the mandate of section 502(c) of the NGPA serve as the primary means for the Commission to address individual situations involving special hardship or inequity under the generally applicable Phase II regulations.

II. The Statutory Mandate to the Commission.

Title II of the NGPA and the accompanying Statement of Managers provide a clear directive to the Commission to propose a broad expansion of incremental pricing in its second phase rule. Section 202, which mandates the second phase rule, is entitled "Amendment Expanding Application for Other Industrial Uses." Subsection (b) of section 202 provides that the second phase rule:

> *"shall apply* with respect *to* the *industrial use of natural gas* (as defined by the Commission in such rule), including boiler fuel use of natural gas * * * *by*—
>
> (1) *any* industrial *boiler fuel facility* (as defined in section 201(c)(1)); *and*
>
> (2) *any industrial facility* which is within a category defined by the Commission in such amendment as subject thereunder to the requirements of such rule which is not exempt under Section 206. (emphasis added)

The Statement of Managers of the NGPA further evidences a Congressional intent that the incremental pricing program be expanded from a program of relatively narrow scope in Phase I to a much broader scope in Phase II. The statement provides:

> The conference agreement requires the Commission to prescribe a rule for implementing incremental pricing. Each pipeline would be required under the rule to place certain portions of its acquisition costs of natural gas into a special incremental pricing account for passthrough to incrementally priced users.
>
> A two stage process is utilized for identification of users who will be subject to incremental pricing. First, the Commission is required to develop a rule, within 12 months after the date of enactment, for implementation of incremental pricing applicable to certain industrial boiler fuel facilities. Second, the Commission is required to develop an amendment to the first rule, within 18 months after the date of enactment, for implementation of incremental pricing to other industrial users.[1]

These directives, and the additional considerations discussed below, lead the Commission to propose that the rule required by section 202 of Title II broaden the scope of the incremental pricing program to include all industrial users. The rule would not, of course, apply to facilities exempted from the program by statute. Moreover, the Commission proposes to exempt all "small" industrial users in much the

[1] House Report No. 95-1752, Octoberr 10, 1978, pages 94, 95.

same manner as small boiler fuel users are already exempt.

In sum, Title II of the NGPA requires that this Commission develop a program to extend the Phase I, boiler-fuel incremental pricing program to all industrial users of natural gas and submit this program to Congress for its review. Section 202 of the NGPA vests the Commission with the authority to include within the incremental pricing program any category of industrial facility that the Commission determines would be appropriate to include. The Commission believes that the Congressional purposes underlying incremental pricing would be most fully met if all industrial users, other than those specifically excluded by statute, are brought within the scope of Title II.

The Commission further believes that the most practicable means of dealing with potential hardships or inequities resulting from incremental pricing is on a case-by-case review pursuant to section 502(c), rather than in a generic proceeding.

The remaining sections outline the basic features of the Phase II rule that the Commission proposes to submit to Congress.

III. Proposal With Respect to the Scope of Phase II.

The proposed definition of industrial facility utilized in Phase II would be the same as that which is incorporated in the Phase I regulations issued on September 28, i.e.:

> "Industrial facility" means any facility engaged primarily in the extraction or processing of raw materials, or in the processing or changing of raw or unfinished materials into another form or product.

Some respondents to the Commission's Notice of Inquiry in RM79–56 (discussed infra in section IX), point out that some facilities within the scope of the broadest possible expansion of incremental pricing may not have the capability to use fuel oil as an alternative to natural gas. These observers generally argued that industrial facilities without fuel oil capability should not be made subject to incremental pricing. The Commission is currently of the view that the absence of alternative fuel oil capability should not prevent the application of incremental pricing to that facility. Explication of the basis of this view requires some discussion of the history of Title II.

During the legislative debate that eventually produced the NGPA, various Congressional spokesmen argued that deregulated new gas prices would initially be driven far above long-run market clearing levels. Congress took the position that such an occurrence would produce an unjust and unacceptably large income transfer from consumers to producers. The House Ad Hoc Committee on Energy, in its report accompanying H.R. 8444, stated that upon sudden deregulation

> an interstate pipeline will be able to bid extremely high prices for new supplies of natural gas, which even deregulation proponents concede will be relatively small as compared to the volumes of presently flowing natural gas. The interstate pipelines, unlike the intrastate pipelines, are not constrained by a limited demand for natural gas. Using rolled-in pricing, interstate pipelines can bid the price of new supplies of natural gas to unprecedented levels of $5 per Mcf or more. (page 395)

This Congressional concern over the disruptive effect of deregulation were it to occur during a period of market imbalance is also illustrated by an economic analysis of the NGPA that accompanied its final adoption by the House.[2] This analysis estimated that the deregulation bill that had previously been passed by the Senate would have resulted

> in new gas prices rising very quickly, to $4.73 per Mcf in 1980 and then dropping slowly during the next several years to a price of $4.48 per Mcf in 1985, after which prices would escalate with the general inflation rate. Prices are highest when unregulated gas represents only a small fraction of pipeline supplies. They drop to equivalence with substitute fuels as the percentage of unregulated pipeline supply increases. This projected disorderly price path under sudden deregulation is the main reason why the conference committee ultimately adopted a mechanism consisting of intrastate controls and moderate price escalation to prepare the natural gas system for eventual decontrol.[2]

The Congress perceived a supply/demand imbalance for natural gas in 1977 and 1978. The NGPA was enacted as a transition mechanism to orderly deregulation in 1985. But concern remained that markets would not be ready for deregulation by then. Congress' solution to the potential problem of excess demand for natural gas relative to its supply in 1985 was to increase the delivered price to large industrial users in order to eliminate industrial demand arising from the artificial "subsidy" effect of rolled-in pricing.[3]

In short, Congress in enacting Title II sought to raise the price of natural gas to large industrial customers to a level at which further increases would threaten to cause loss of industrial load, and thereby reduce total sales of interstate pipelines. Incremental pricing was thus intended to place the large industrial users in the role of motivating their pipelines to refrain from bidding up the price of deregulated natural gas or relying excessively on the regulated gas categories with high ceiling prices. Achieving this objective of Title II would appear to require maximizing the number of industrial users included within the program. A user's lack of alternative fuel oil capability does not dispose of the question of whether his consumption is price sensitive. Higher natural gas prices to process or feedstock users should encourage conservation and other actions (such as adding alternative fuel capability) affecting the use of natural gas. The Congressional purpose of achieving market balance by 1985 may require the full exploitation of economic incentives for demand reduction.

The proposed expanded scope of Phase II also arises from the possibility that by 1985 declining total natural gas production and the operation of curtailment plans will prevent incremental pricing from accomplishing demand restraint. Phase I users are among the lowest priority users of natural gas; if heavily curtailed, Phase I users would no longer be in a position to affect their pipelines' bidding decisions. Under such circumstances, demand restraint could be achieved only through measures applicable to users of higher priority than industrial boilers.

Accordingly one of the areas that the Commission must examine in promulgating a Phase II rule is the demand and supply outlook for natural gas markets as deregulation in 1985 approaches. The ultimate status of gas markets in 1985 turns on future volumes and prices of natural gas that the Commission is not presently able to ascertain with the clarity necessary to make a definitive determination that the scope of Phase II should be any less broad than authorized by Title II.

Commenters that have made pertinent analyses are specifically requested to provide the Commission with estimates of natural gas demand and supply in 1985 and 1990 on either a pipeline system, state, or nationwide basis. In addition, the Commission seeks projections of delivered natural gas

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[2] *Economic Analysis of H.R. 5289, Natural Gas Policy Act of 1978*, Prepared by the Staff of the Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, October 13, 1978, pp. 4–5.

[3] See House Committee Print 95–31, *Economic Analysis of Natural Gas Policy Alternatives*, Committee on Interstate and Foreign Commerce, Subcommittee on Energy and Power, December 1977, pages 11 and 12. Rolled in pricing refers to the phenomenon in which a pipeline can blend high-priced gas with lower-priced regulated gas and still keep the average price of gas within marketable limits.

prices as of year-end 1984 to each major user category under the assumption that no Phase II rule becomes effective and how such prices would compare with the projected price of alternative fuels to each user category. Projections and analyses of these types will assist the Commission in evaluating the impacts of the Phase II proposal described herein, and other possible alternatives.

A second purpose of incremental pricing is to shelter residential and other high priority natural gas consumers from the full near-term impact of wellhead price increases permitted by the NGPA. This effort to mitigate price impacts on non-industrial customers is accomplished by recovering a greater proportion of interstate pipeline purchased gas costs for users subject to incremental pricing than from other users. Through the interaction of incremental pricing surcharge accounts (recovered only from incrementally priced users) and normal purchased gas adjustment accounts (recovered from all users), non-incrementally priced users will receive the greatest rate benefits when the recovery of gas costs from incrementally priced users is maximized. The Commission is highly cognizant of its mandate to afford high priority users the full measure of price protection consistent with the purposes of Title II, and believes that this protection will be best achieved by maximizing the volume of natural gas use subject to incremental pricing.

As discussed extensively in the final orders issued in Docket No. RM79–21, the Commission must balance two competing objectives found in Title II of the NGPA. The first objective is to maximize the recovery of NGPA-related wellhead price increases from industrial customers.

The second objective is to set the alternative fuel cost ceilings on incremental pricing surcharges at a level that will not encourage industrial users to swtich from natural gas to fuel oil if such switching would result in increased rates for residential and small commercial customers. The Commission believes that these balancing considerations remain critical to proper implementation of the incremental pricing program as broadened by Phase II. The need to insure that consumers are not damaged by virtue of having to pay more of the fixed costs of the natural gas transmission and distribution system does not mean that no loss of industrial load is permissible. Some load loss may be compatible with Title II if, among other reasons, the resulting reduction in deregulated gas prices more than offsets the increased allocation of fixed costs to high priority customers. Such a result could occur if the reduced industrial demand for gas so reduces bidding pressures on deregulated gas that the average unit cost of gas acquisition (at the wellhead) is decreased by more than the amount by which the average unit cost of transmission and distribution is increased.

Comments on the Commission's responsibility to minimize the delivered cost of gas to high priority customers, the relationship of the objective to the issue of load loss, and the implications from Phase II implementation are requested.

IV. Proposal With Respect to the Level of Incremental Pricing.

An issue central to the expansion of incremental pricing is the level of ceiling prices that should be applied to non-boiler fuel facilities. One possibility would be to use the same ceilings as in Phase I. Another would be to develop some other ceilings for non-boiler fuel use of gas. Stated alternatively, the question is whether industrial facilities which utilize natural gas for a process or feedstock use (including those with no alternative fuel capability) should pay prices equivalent to the No. 2 or No. 6 fuel oil prices, as adjusted pursuant to Order No. 50.

If industrial non-boiler fuel natural gas were to be incrementally priced in some manner different from the way boiler fuel users are treated, the question becomes what ceiling level(s) would be appropriate. Should such users be subject to the highest ceiling prices under Title II, on the theory that these users should absorb as much as they are able to bear inasmuch as there is no reasonable prospect of load attrition and, therefore, no potential adverse impact on high-priority customers due to load loss? Or, on the other hand, would it be appropriate to price these users at low ceiling prices on the theory that natural gas use by these facilities is so insensitive to price that to impose the highest statutory price would be punitive?

The Commission proposes at this time that the three-tier ceiling adopted for purposes of Phase I be used for Phase II as well. The Commission believes that the advantages of the three-tier approach are equally as applicable to Phase II as they are to Phase I. Adoption of the three-tier approach would encompass the presumption that a user who did not have No. 5 or No. 6 alternative capability would be deemed to have No. 2 fuel oil capability. This aspect of the three-tier approach is described in more detail below. However, the Commission recognizes that the questions set out above pose difficult policy issues and seeks guidance with respect to the preferred resolution of this matter. Users whose only alternative fuel is propane are asked to suggest possible approaches for alternative fuel cost treatment within the limits prescribed by section 204 of the NGPA.

Under the final regulations adopted by the Commission in Order No. 50, non-exempt industrial boiler fuel facilities will be priced for their use of natural gas up to the price equivalence of No. 2 fuel oil unless they can demonstrate a capability to use less costly No. 5 or No. 6 fuel oil. The principal advantage of the three-tier ceiling approach is that it should cause the ceiling applicable to any particular incrementally priced facility to be high enough to maximize the recovery of incremental costs from that facility, yet low enough to minimize the likelihood that the facility would switch to an alternative fuel. Where lower cost fuel oil capability exists, users will be subject to lower natural gas ceiling prices corresponding to the price equivalence of either low sulfur or high sulfur No. 6 fuel oil. The principal advantage of this three-tier ceiling approach is that it should cause the ceiling applicable to any particular incrementally priced facility to be high enough to maximize the recovery of incremental costs from that facility, yet low enough to minimize the likelihood that the facility would switch to an alternative fuel. The three-tier system would seem to offer the potential to achieve the maximum possible flow-through of incremental costs to industrial customers without causing load loss. An additional advantage of the three-tier approach is that is imposes minimal administrative burdens on users subject to incremental pricing.

While adopting the three-tier approach as a permanent part of incremental pricing, the Commission adopted an interim rule under which facilities subject to incremental pricing will be priced only up to the equivalent price of No. 6 high sulfur fuel oil (the lowest priced of the three tiers) for ten months. This interim rule to exempt users from the upper two tiers contained in the permanent rule was adopted by the Commission as an exemption under the authority of section 206 of the NGPA and had to be submitted for Congressional review before it could become effective. The interim exemption rule was not disapproved by the Congress, and thus the single high-sulfur No. 6 tier will apply for the first ten

months of the program, from January 1, 1980 through October 31, 1980.

Increased cost absorption by industrial users under the three-tier rule should have the effect of reducing the impact of rising wellhead gas prices on residential and other high priority customers to as full an extent as is possible given the constraint that Phase I is limited to boiler fuel users. The record in the proceeding on the three-tier rule indicated that the maximum surcharge absorption capability of industrial boiler fuel users will probably be less than the amount of purchased gas costs subject to incremental pricing as soon as the rule takes effect. If industrial boiler fuel users subject to Phase I are in fact likely to be pushed immediately to alternative fuel ceiling prices, it works to the disadvantage of high priority users to permit only the lowest of the three tiers to operate any longer than necessary. Hence, the Commission adopted the single tier rule for only a ten-month interim period.

By increasing the amount of industrial use subject to incremental pricing, the proposed Phase II rule should increase the total surcharge absorption capability of industrial users. If, initially, the effect of the Phase II rule would be to cause the aggregate surcharge absorption capability of incrementally priced users to exceed the amount of purchased gas costs subject to incremental pricing, then there would be no adverse consequence on high priority users if the single tier rule, or some other exemption falling short of the three-tier rule, were to remain in effect beyond October 31, 1980. Accordingly, the Commission seeks as detailed information as is available on the amount by which the proposed Phase II rule would increase maximum surcharge absorption capabilities under alternative ceiling approaches.

To best assist the Commission, commenters are asked to provide any available data regarding the following questions:

1. Under Phase I, what is the estimated 1980 average maximum surcharge absorption capability (MSAC) under the single No. 6 ceiling? What would the Phase I MSAC be if the three-tier rule were in effect?

2. What is the current delivered price of natural gas to non-boiler industrial users served directly or indirectly by interstate pipelines?

3. What is the current price of alternative fuels for these users?

4. On the basis of current or estimated 1980 volumes consumed by these industrial non-boiler users, what increase in the MSAC would occur under the proposed Phase II program relative to Phase I? Both dollar amounts and percentages are desired.

Ideally, analyses will utilize alternative assumptions relating to the ceiling price applicable to industrial users without fuel oil capability. One computation should assume users are priced at the No. 2 fuel oil level. The other computation should assume that users without alternative fuel oil capability are priced at the high sulfur No. 6 fuel oil price. For both computations, assume that the three-tier approach applies to all users with fuel oil capability.

Analysts should identify whether data apply to a pipeline system, distribution company, state, or nationwide.

V. Proposal With Respect to Surcharge Computation and Passthrough Mechanism for Phase II

As stated previously, the Commission adopted a mechanism for implementation of the Phase I program which is commonly referred to as the "reduced PGA" method. This mechanism requires that pipelines estimate, for several months into the future, their natural gas acquisition costs and the amount of such costs subject to being passed through to industrial users as incremental pricing surcharges. The pipeline supplier then recovers his purchased gas costs through both incremental pricing surcharges and the purchased gas costs adjustment (PGA) rate. The amount which would otherwise be reflected in the PGA rate is reduced by the amount estimated to be recovered through incremental pricing surcharges in order to avoid double recovery. The primary reason the Commission determined to adopt this approach was that it results in an almost immediate flow through of the benefits of the incremental pricing program to high priority customers.

The Commission has concluded that the regulations which provide the structure for the Phase I incremental pricing program should generally be retained and utilized for Phase II. The Commission does, however, request specific comment on the adaptability of the Phase I regulations to Phase II as it is proposed herein. In particular, the Commission requests comment on whether the "reduced PGA" mechanism will be adaptable to the Phase II program.

Several commenters indicated in their comments submitted in Docket No. RM79–14 that they believe the "reduced PGA" mechanism would not be workable if the class of affected end-users were significantly expanded. The "reduced PGA" method entials numerous estimates, calculations, and a large reporting network in order to operate smoothly. Commenters indicated that each step could not be completed in a timely fashion if end-users subject to incremental pricing surcharges were to increase in number.

Commenters who held this view are requested to explain in detail why they conclude that the "reduced PGA" approach would not be workable for Phase II. The Commission is interested in estimates of the number of additional end-users who would become subject to incremental pricing under Phase II, and who are not already subject to Phase I. Measures of the work-load and computational time implications of the proposed Phase II rule are also requested.

In addition, the Commission seeks estimates of the anticipated level of purchased gas costs subject to incremental pricing in 1980 and in 1985. Based on this information and the calculations of maximum surcharge absorption capabilities requested in the previous section, parties are requested to provide information as to whether under Phase II the aggregate absorption capability of a pipeline's customers will exceed the total incremental gas costs which may be passed through to such users. If so, how long will it take for the incrementally priced industrial users served by the pipeline to reach their alternative fuel ceilings?

Commenters who believe that the "reduced PGA" method will not be workable for Phase II, are requested to described in detail alternative methodologies that the Commission should consider. In this regard, the Commission continues to adhere to its position, adopted in the Docket No. RM79–14 proceeding, that the mechanisms for calculation and billing of incremental pricing surcharges should result in as little delay as possible in the recovery of incurred acquisition costs.

One other aspect of the Phase I mechanism merits mention at this point. The Phase I regulations currently require installation of submeters within industrial facilities to determine the volume of gas used for non-exempt purposes. This requirement will become effective November 1, 1980. In the interim ten-month period, the Commission will rely on certified estimates. Expansion of the program to all industrial uses of natural gas might eliminate the need for many submeters which would otherwise have to be installed, and would in part resolve the difficult issue of submetering.

However, submetering might still be required in order to differentiate between the volumes of gas used for boiler fuel and for other uses, should the

Commission determine that different ceilings should apply to the different types of use. An additional need for submeters may arise in conjunction with providing exemptions to "small" users, as described in the following section.

Commenters are invited to address the question of the degree of submetering which would be necessary under the Phase II program as proposed here.

VI. Proposal With Respect to "Small" Nonboiler Fuel Industrial Facilities.

The Commission's current intention is that the proposal to expand incremental pricing to all industrial facilities would not encompass "small" industrial facilities. This exemption would be consistent with the statutory exemption granted to "small" boiler fuel facilities. For purposes of Phase I, a small boiler fuel user is defined as any boiler facility using 300 Mcf or less per day. For purposes of Phase II, this 300 Mcf threshold will be adjusted to the level required to make 95 percent of total industrial natural gas boiler fuel transported by interstate pipelines subject to incremental pricing (5 percent rule).

The statute requires that the eligibility for the "small" boiler fuel facility exemption be based on the volume of natural gas consumed in 1977. If the volume used in 1977 was below the threshold, the facility qualifies for the exemption.

The base period approach for identifying "small" boiler fuel facilities has certain disadvantages. For example, the approach does not account for situations where the base period use was anomalous. Nor does the approach provide for the treatment of facilities constructed since the base period. Finally, the approach leaves open the question of the treatment of facilities whose usage has been altered since the base period.

Because of such problems, the Commission has determined that the exemptions for "small" non-boiler fuel facilities should be based on the current use of natural gas in the facility.

To implement this approach, the Commission proposes to look to a base period comprised of the six months prior to the effective date of the Phase II regulations. In this regard, the Commission proposes to make the Phase II regulations effective on November 1, 1980.

If in any billing month beginning after April 30, 1980, the facility used more than an average of 300 Mcf per day (or the permanent threshold in accord with section 206(a)(2) of the NGPA, if lower) for a non-boiler fuel use, the facility would be subject to incremental pricing as to all such use under Phase II. Further, any facility constructed following the effective date of the Phase II rules would become subject to the program when and if its usage exceeds the threshold volumetric limit.

Finally, the Commission currently believes that the "small" boiler fuel facility exemption and the exemption described above for other uses of natural gas should be additive. Thus, any one facility could receive a "small" exemption with respect to either or both its boiler fuel use and its other uses of natural gas so long as both uses are below their threshold levels.

The additive rule is perhaps best explained by way of example. A facility consumed 250 Mcf per day (peak month) of boiler fuel in 1977. It currently consumes an additional 250 Mcf per day for process use. Assuming that the small exemption threshold is not reduced by the 5 percent rule but remains at 300 Mcf per day, the entirety of the facility's use would be exempt from incremental pricing because each type of use is below its volumetric threshold. On the other hand, a facility that consumed 350 Mcf per day (peak month) of boiler fuel in 1977 and which consumes 150 Mcf per day for process use would be incrementally priced for the totality of its boiler fuel use. This latter facility, even though it uses the same total volume of gas as the former, would be exempt only with respect to its non-boiler fuel use (and only for so long as this non-boiler fuel use remains below 300 Mcf per day).

The Commission has considered but tenatively rejected alternative approaches to exemptions for small industrial users. One alternative would be to simply exempt any facility whose combined use of natural gas for boiler and non-boiler fuel is less than 600 Mcf per day. This option has been rejected because it would permit large boiler fuel users (greater than 300 Mcf per day) to benefit from an exemption so long as process use is sufficiently small to keep total consumption below 600 Mcf per day. Such a result is plainly inconsistent with the language and intent in section 206(a) that the boiler fuel exemption apply only to facilities using 300 Mcf per day or less.

Another alternative to small industrial user exemptions would be the "single threshold" approach. Under this approach the single 300 Mcf per day threshold would apply to the entirety of a facility's consumption. The advantage of this approach is its simplicity. However, one problem is that it may also bring about inequities. If total consumption were to exceed the 300 Mcf per day threshold, only the volume below the threshold would be eligible for an exemption, and any use in excess of the threshold would be subject to incremental surcharges. This treatment could result in a small volume of natural gas used as non-boiler fuel, when used in conjunction with boiler fuel use, being incrementally priced, while a user which consumed a substantially larger amount (up to the threshold amount) of gas for non-boiler fuel purposes might receive an exemption for his entire non-boiler consumption.

For example, if one facility used 290 Mcf per day (peak month) for boiler fuel in 1977 and currently consumes 50 Mcf for process use, the 50 Mcf non-boiler fuel use would be subject to incremental pricing under the "single threshold" approach. The facility's boiler fuel use would be exempt because it it is covered by the small boiler exemption. A second facility using no boiler fuel but using 290 Mcf per day for process use would be totally exempt because its consumption would be less than the "single threshold." The anomolous result is that the smaller process fuel use is incrementally priced, while on the other hand the larger use is exempt.

However, the Commission remains concerned that the additive approach may result in granting an exemption to a facility consuming up to 600 Mcf per day (or twice the threshold established for Phase II) and that such a facility is not sufficiently "small" to warrant special treatment. Thus, comments are requested on the question of whether the "small" exemptions should be treated as proposed above, or whether some alternative approach should be adopted in order to achieve administrative simplicity and equitable impact.

VII. Proposal With Respect to Adjustments to Phase II Regulations.

Section 502(c) of the NGPA vests in the Commission the authority to grant "adjustments" to any regulations adopted under the statute in order to alleviate special hardship, inequity, or an unfair distribution of burdens. The Commission has adopted procedures under which an application for such an adjustment may be filed for consideration by the Commission (18 CFR 1.41). Decisions on adjustment applications are issued by the Office of Pipeline and Producer Regulation, and may be appealed to the Commission for review.

When regulations are adopted to implement the Phase II program, 502(c) adjustments will be available with respect to those regulations, as they are now with respect to other NGPA

regulations. One category of "adjustments" which are to be made available under section 502(c) are "exemptions." Section 206(d) also provides for "exemptions" from regulations which implement Title II of the NGPA, and makes such exemptions subject to Congressional review before they may take effect.

The Commission is concerned that an argument could be made that the provisions of section 206(d) indicate that all "exemptions" granted to regulations which implement Title II must be subject to Congressional review. The Commission believes that section 206(d) does not impair its authority under section 502(c) and that section 206(d) is applicable only to actions which would grant generic exemptions from the mandatory provisions of the statute. The Commission views the section 502(c) "exemptions" as actions which would grant an exemption from regulations which were adopted pursuant to the Commission's discretion.

In order to obviate a possible challenge on this point, however, the Commission has determined to propose to include provisions in the Phase II regulations which would provide for the granting of 502(c) exemptions by the Commission. The Commission believes that Congressional review of the totality of the Phase II regulations (including the proposed 502(c) "exemption" procedures) would constitute Congressional approval (or disapproval) of the Commission's authority to grant 502(c) "exemptions". Comments are requested on this proposal.

The Commission also solicits comment on the criteria it should utilize in order to reach determinations on all—exception, exemption, modification and rescission—502(c) adjustment applications.

The Commission has made a preliminary determination that it is premature at this time to attempt to further define the statutory criteria of "special hardship, inequity, or unfair distribution of burdens". The Commission believes further refinement should not be undertaken until the Commission has gained experience in reviewing 502(c) applications and is more familiar with the reasons why such relief would be appropriate. However, the Commission solicits comments on this point at this time.

VIII. Proposal With Respect to Permanent Exemptions for Small Boilers and Agricultural Uses.

As discussed in the preamble to the final rule in Docket No. RM79-14, section 206(c) of the NGPA requires that permanent exemptions with regard to small boilers and agricultural uses be promulgated prior to May 9, 1980. (The interim exemptions for these two categories were required to be adopted by November 9, 1979, and were incorporated in the regulations issued on September 28, 1979.)

The two permanent exemptions are not, however, unlike the rule required by section 202, subject to Congressional review. The Commission currently plans to adopt regulations with respect to the two permanent exemptions on a time schedule similar to the one for the rule required by section 202, but to open separate dockets for each. This will aid in keeping comments focused on the issues important to each of the three dockets. This approach will also allow us to have the regulations on the permanent exemptions in place, should the Congress ultimately disapprove the regulations promulgated in this docket.

IX. Interface of Incremental Pricing Program with Curtailment Program.

On June 28, 1979, (44 FR 38857, July 3, 1979), the Commission issued a Notice of Inquiry (RM 79-56) with respect to a study proposal to link incremental pricing with curtailment policies. The basic feature of the study proposal is to allow each industrial user subject to incremental pricing (under both Phase I and Phase II) to determine its own alternative fuel value. This alternative fuel value would then determine each user's curtailment status. Users choosing a low alternative fuel ceiling for incremental pricing purposes would obtain relatively lower-priced gas, but would also receive correspondingly low priority status, so that they would be curtailed prior to users choosing higher priced alternative fuel ceilings.

In issuing the study proposal for public comment, the Commission indicated that it:

> * * * is interested in this proposal for a number of reasons. First, it is an intriguing approach to curtailment policy because it appears to address many of the problems that the courts have expressed with respect to current end use curtailment policy. Second, the proposal is viewed by some Commission staff as a means of lessening perceived administrative and economic burdens associated with incremental pricing. Finally, the proposal seeks to use market forces rather than regulations to create a stable and fair system for allocating supplies and costs of natural gas. (mimeo p. 2;44 FR 38858)

An informal conference on the subject was held on August 7, 1979. In addition, numerous written comments were submitted in response to the Notice. The majority of commenters criticized the proposal and suggested that the concept of tying these two programs together is too sweeping to merit serious attention at this time. The Commission remains intrigued with the concepts expressed in the study proposal, but would prefer to leave the issue open for constructive development if circumstances surrounding the full implementation of incremental pricing appear to warrant increased attention to this alternative. Accordingly, the Commission does not intend to actively pursue the study proposal at this time.

X. Comment Procedures.

A. *Written Comments.* Interested persons are invited to submit written comments, data, views, or arguments with respect to this proposal. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C 20426 and should reference Docket No. RM80-10. An original and 14 copies should be filed. All comments received prior to 5:00 p.m. EST, January 31, 1980, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours.

B. *Public Hearings.* Public hearings on these proposed regulations will be held at several regional locations during the month of January, 1980. The exact dates, locations and procedures for these hearings will be announced at a later date.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, (15 U.S.C. 3301, *et seq.*).)

In consideration of the foregoing, it is proposed to amend Title 18 of the Code of Federal Regulations by revisions to Part 282, to read as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 282.102 is revised in paragraph (a) to read as follows:

§ 282.102 Applicability and effective date.

(a) *Uses.* (1) Natural gas used as boiler fuel in industrial boiler fuel facilities on and after January 1, 1980, shall be subject to incremental pricing under this part.

(2) On and after November 1, 1980, natural gas used in all industrial facilities shall be subject to incremental pricing under this part.

* * * * *

2. Section 282.203 is revised to read as follows:

§ 282.203 Exempt end-uses.

(a) In accordance with the provisions of sections 206 (a), (b), and (c) of the NGPA, natural gas used for the following purposes shall be exempt from incremental pricing under this part:

(1) All gas used for boiler fuel by an industrial boiler fuel facility which was:

(i) In existence on November 9, 1978; and

(ii) Did not consume more than an average of —— Mcf (to be determined in the separate rulemaking proceeding instituted to implement section 206(a)(2) of the NGPA) per day for boiler fuel during any calendar month of calendar year 1977;

(2) All gas used for an agricultural use (the definition of "agricultural use" will be determined in the separate rulemaking proceeding instituted to implement section 206(b)(2) of the NGPA);

(3) All gas used in a school, hospital, or similar institution;

(4) All gas used for the generation of electricity by an electric utility; and

(5) All gas used in a qualifying cogeneration facility.

(b) In addition, all gas used for purposes other than as boiler fuel by an industrial facility shall be exempt from incremental pricing under this part if on and after May 1, 1980, the facility does not consume more than an average —— Mcf (to be determined in the separate rulemaking proceeding instituted to implement section 206(a)(2) of the NGPA) per day for uses other than as boiler fuel during any billing month.

3. Section 282.204 is revised to read as follows:

§ 282.204 Obtaining an exemption.

(a) *General.* This section establishes procedures by which owners or operators of industrial facilities may obtain an exemption for natural gas used for the purposes described in § 282.203.

(Conforming amendments to paragraphs (b) through (f) will be made to conform the exemption affidavit procedure to the substantive provisions adopted in this and companion rulemaking proceedings.)

4. Section 282.206 is revised in paragraph (a) to read as follows:

§ 282.206 Petitions for exemptions under section 206(d).

(a) *General rule.* Any person may petition under authority of subsection 206(d) of the NGPA for the exemption, in whole or in part, of any non-exempt industrial facility or category thereof.

* * * * *

5. A new § 282.207 is added to read as follows:

§ 282.207 Exemptions under section 502(c).

(a) *General rule.* The Commission may, under authority of section 502(c) of the NGPA, exempt any non-exempt industrial facility, (or category thereof), in whole or in part, from any provision of this part.

(b) *Procedures.* The procedures set forth in § 1.41 shall apply to an application for an exemption in the nature of an adjustment as described in paragraph (a).

§§ 282.401—282.405 [Amended]

6. Sections 292.401 through 282.405 are revised by deleting "boiler fuel" wherever it appears.

§§ 282.501, 282.503 and 282.504 [Amended]

7. Sections 282.501, 282.503, and 282.504 are revised by deleting "boiler fuel" wherever it appears. (Appropriate conforming amendments will also be made to the estimating/submetering provisions in § 282.504.)

8. Section 282.506 is revised by designating the present text as paragraph (a) and by adding a new paragraph (b), to read as follows:

§ 282.506 Refunds.

* * * * *

(b) The jurisdictional portion of any refund (including interest applicable thereto) which is attributable to service provided to non-exempt industrial facilities prior to January 1, 1981, which has not been flowed through to such users as of December 31, 1980, shall be flowed through as a lump sum payment in appropriate amounts to each appropriate natural gas supplier for the benefit of such users. Such refunds shall be calculated on the basis of sales to such users during the period when the rates which give rise to the refund were in effect.

§§ 282.602 and 282.603 [Amended]

9. Sections 282.602 and 282.603 are revised by deleting "boiler fuel" wherever it appears.

[FR Doc. 79-36005 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

18 CFR Part 292

[Dockets Nos. RM79-54 and RM79-55]

Small Power Production and Cogeneration—Rates and Exemptions; Public Hearings

November 16, 1979.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Time and Place of Public Hearing.

SUMMARY: On October 24, 1979, the Federal Energy Regulatory Commission issued a Notice of Public Hearings in RM79-55 which implements Part 292 of its regulations. The proposed regulations would implement section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). That section sets forth rates for the sale of electric energy between qualifying small power production and cogeneration facilities and electric utilities. It also provides for the exemption of qualifying facilities from State and Federal regulation.

The Notice of Public Hearings also addressed the Request for Further Comments in RM79-54, which implements section 201 of PURPA by establishing a procedure whereby cogeneration and small power production facilities can become qualified to receive the benefits set forth in RM79-55. The Request for Further Comments specifically seeks comment on the preliminary Environmental Assessment of the environmental effects of the two rules and the interrelationship between the rules. The preliminary Environmental Assessment is available at the Commission's Office of Public Information.

Notice was given that four public hearings would be held in Seattle, New York, Denver, and Washington, D.C. with respect to the Notice of Proposed Rulemaking in RM79-55 and the issues raised in the Request for Further Comments in RM79-54. This notice specifies the locations and times for the public hearings in New York, Denver, and Washington, D.C.

DATES: The deadline for requests to participate in these hearings has been extended to November 26, 1979. Hearings dates: November 28 in New York, New York; November 30 in Denver, Colorado; and December 4 in Washington, D.C.

ADDRESSES: Requests to participate should be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street,

NE., Washington, D.C. 20426 and should reference Docket No. RM79–55. The hearings will be held at the following locations: New York Hearing: Room 10, Association of the Bar of the City of New York, 42 West 44th Street, New York, New York; Denver Hearing: Lecture Hall A & B, United States Geological Survey Building 25, Federal Center, Denver, Colorado. Washington, D.C. Hearing: The Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20462.

FOR FURTHER INFORMATION CONTACT: Barbara King, Office of Congressional and Public Affairs, Federal Energy Regulatory Commission, Room 9200–C, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357–8373.

SUPPLEMENTARY INFORMATION: The hearings are being held pursuant to the requirements of section 210(a) of PURPA that these rules shall be prescribed "* * * and after public notice and a reasonable opportunity for interested persons (including State and Federal agencies) to submit oral as well as written data, views and arguments." Staff may question persons making presentations, and persons may submit to the presiding officer questions to be asked of those making presentations. The presiding officer will determine whether the questions so submitted are relevant and whether time permits their presentation. If time permits, participants may be given the opportunity to rebut points raised during other presentations. In addition, if there is time remaining at the end of the hearing, persons who attend the hearings but have not previously reserved time to present their views will be given the opportunity to make a statement. Any further procedural rules will be announced by the presiding officer at the hearing. The hearing will be continued on the following day, if necessary, at the same location.

Requests to participate in the hearing should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should be made no later than November 26, 1979. Requests should indicate the amount of time required for the oral presentation and the name, representation, and telephone number of the person who will participate.

Participants should, if possible, bring 50 copies of their presentation to the hearing. A list of the participants will be available in the Commission's Office of Public Information two days before the hearing and at the place of hearing on the morning of the hearing.

A transcript will be made of the hearing and it will be made part of the public file of Docket No. RM79–55.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–36014 Filed 11–21–79; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 881

[Docket No. R–79–724]

Section 8 Housing Assistance Payments Program—Substantial Rehabilitation; Transmittal of Interim Rule to Congress

AGENCY: Department of Housing and Urban Development

ACTION: Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410 (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 881—Section 8 Housing Assistance Payments Program—Substantial Rehabilitation

This interim rule would completely revise 24 CFR Part 881, governing the Section 8 Substantial Rehabilitation program.

The major changes from the present rules are as follows:

1. The revised regulations would provide new limits on rent, costs and amenities and require cost justification for rents in certain cases.

2. Changes would be made in processing to coordinate Section 8 submissions with the submissions required under the HUD mortgage insurance programs.

3. New relocation requirements would provide more equitable treatment for tenants displaced by rehabilitation activities.

In addition, the language of the revised part has been simplified and the format made more readable.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 16, 1979.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79–36007 Filed 11–21–79; 8:45 am]

BILLING CODE 4210–01–M

24 CFR Part 888

[Docket No. R–79–742]

Section 8 Housing Assistance Payments Program—Fair Market Rents and Contract Rent Automatic Annual Adjustment Factors; Transmittal of Interim Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410 (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 888—Section 8 Housing Assistance Payments Program—Fair Market Rents and Contract Rent Automatic Annual Adjustment Factors—Amendments to Permit Publication of Contract Rent Automatic Annual Adjustment Factors by Notice in the Federal Register.

This interim rule would amend 24 CFR 888.202 to permit the Contract Rent Automatic Annual Adjustment Factors to be published by Notice in the Federal Register rather than as Schedule C to Part 888. In addition, this interim rule would amend § 888.201 to delete a specific listing of the Section 8 Housing Assistance Payments Programs which use the Annual Adjustment Factors and to make a general statement to indicate that Automatic Annual Adjustment Factors are used to adjust rents under all of the Section 8 Housing Assistance Payments Programs.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 16, 1979.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-36006 Filed 11-21-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-32-78]

Election of Alternative Amortization Method of Funding Certain Pension Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the procedure for electing an alternative amortization method of funding certain pension plans. These regulations implement section 1013(d) of the Employee Retirement Income Security Act of 1974, and provide necessary guidance to the public for compliance with the Internal Revenue Code of 1954, as amended. The regulations would affect certain multiemployer pension plans which were in existence on January 1, 1974.

DATES: The proposed regulations are effective generally for plan years beginning after 1975, but earlier (or later) in the case of some plans as provided by section 306 of the Employee Retirement Income Security Act of 1974. Written comments and requests for a public hearing must be delivered or mailed by January 21, 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (EE-32-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mr. Russell Greenblatt of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3544) (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 412 of the Internal Revenue Code of 1954. Section 412 was added by section 1013 of the Employee Retirement Income Security Act of 1974 (ERISA) (88 Stat. 914). These amendments are proposed to conform the regulations to section 1013(d) of ERISA and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805), and section 1013(d)(1) of ERISA (88 Stat. 923). These regulations also apply for purposes of section 302 of ERISA (88 Stat. 869; 29 U.S.C. 1082).

Explanation of Provisions

Section 412 of the Internal Revenue Code of 1954, added by section 1013 of ERISA, provides minimum funding requirements with respect to certain pension plans. These requirements include the maintenance of a minimum funding standard account, to which is charged (among other items), in accordance with section 412(b)(2)(B), an amount necessary to amortize in equal annual installments the plan's unfunded past service liability.

With respect to certain multiemployer plans which were in existence on January 1, 1974, section 1013 (d) of ERISA allows an election by the plan to fund certain unfunded past service liability on the basis of an equal annual percentage of the aggregate pay of all participants of the plan in lieu of the level dollar charges referred to above. This alternative amortization method applies to the amount of unfunded past service liability which exists as of the date 12 months after the date on which section 412 first applies to the plan.

The proposed regulations prescribe the means by which certain multiemployer plans can elect the alternative amortization method. The multiemployer plans to which this election is available are those plans which (a) on January 1, 1974, had contributions under the plan based on a percentage of pay, (b) have actuarial assumptions with respect to pay which are reasonably related to past and projected experience, and (c) have rates of interest under the plan which are determined on the basis of reasonable actuarial assumptions. The election consists of the attachment of a statement to the annual report required under section 6058 (a) for the plan year for which the election is made, stating that the alternative method is being adopted. Advance approval from the Internal Revenue Service is not required. The alternative method must be adopted on or before the deadline for filing the annual report corresponding to the last plan year beginning before January 1, 1982. If the election is made after the first plan year to which section 412 applies, recomputation of the contributions due in the prior years (to which section 412 applied) will be necessary.

Comments and Requests for a Public Hearing

Before adopting the rules contained in these proposed regulations as final regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. However, it is anticipated that any public hearing will be deferred until the issuance of further proposed regulations regarding section 412. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

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

Proposed amendments to the regulations

The Income Tax Regulations (26 CFR Part 1) are amended by adding in the appropriate place the following new section:

§ 1.412(b)-5 Election of the alternative amortization method of funding.

(a) *Alternative amortization method in general.* Section 1013(d) of the Employee Retirement Income Security Act of 1974 provides an alternative method which may be used by certain multiemployer plans (as defined in section 414(f)) which were in existence on January 1, 1974, for funding certain unfunded past service liability. The multiemployer plans which may elect to use this alternative method are those plans (1) under which, on January 1, 1974, contributions were based on a percentage of pay, (2) which use actuarial assumptions with respect to pay that are reasonably related to past and projected experience, and (3) which use rates of interest that are determined on the basis of reasonable actuarial assumptions. The unfunded past service liability to which this method applies is that amount existing as of the date 12 months after the date on which section 412 first applies to the plan. The alternative method allows the plan to fund this liability over a period of 40 plan years by charging the funding standard account with an equal annual percentage of the aggregate pay of all participants in the plan instead of the level dollar charges required under section 412(b)(2)(B). Paragraphs (b), (c), (d) and (e) of this section contain procedural rules for electing this alternative method.

(b) *Election procedure.* To elect the alternative amortization method, a multiemployer plan must attach a statement to the annual report required under section 6058(a) for the plan year for which the election is made, stating that the alternative method for funding unfunded past service liability is being adopted. Advance approval from the Internal Revenue Service is not required. The alternative method must be adopted on or before the last day prescribed for filing the annual report corresponding to the last plan year beginning before January 1, 1982.

(c) *Charges to which the alternative amortization method is applicable.* Once elected, the alternative amortization method is applicable to the unfunded past service liability existing as of the date 12 months after the date on which section 412 first applies to the plan. This results in charges to the funding standard account which are in lieu of—

(1) Charges required under clause (i) of section 412(b)(2)(B), and

(2) Charges required under clause (iii) of section 412(b)(2)(B) if the plan amendments referred to in such clause result in a net increase in the unfunded past service liability existing as of the date 12 months after the date on which section 412 first applies to the plan. Such charges generally will arise only with respect to plan amendments adopted in the first plan year to which section 412 applies.

If the election is made on an annual report corresponding to a plan year after the first plan year to which section 412 applies, recomputation of the contributions due in the prior years (to which section 412 applied) will be necessary.

(d) *Limitation.* The sum of the charges described in this paragraph may not be less than the interest on the unfunded past service liabilities described in section 412(b)(2)(B) (i) and (iii), determined as of the date 12 months after the date on which section 412 first applies to the plan.

(e) *Reporting requirements.* Each annual report required by section 6058(a) and periodic report of the actuary required by section 6059 must include all additional information relevant to the use of the alternative amortization method as may be required by the applicable forms and the instructions for such forms.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79-35965 Filed 11-21-79; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 42

Nondiscrimination Based on Handicap in Federally Assisted Programs—Implementation of Section 504 of the Rehabilitation Act of 1973 and Executive Order 11914; Rescheduling Public Meeting

AGENCY: Department of Justice.

ACTION: Rescheduling Public Meeting Relating to Proposed Rulemaking.

SUMMARY: The Department of Justice published proposed rulemaking in the **Federal Register** of September 21, 1979 (44 FR 54950) to prohibit discrimination against the handicap in programs and activities receiving Federal financial assistance from the Department of Justice. The proposed rule is designed to comply with section 504 of the Rehabilitation Act of 1973 as amended and Executive Order 11914 (41 FR 17871, April 28, 1976) which relate to nondiscrimination against handicapped persons in programs and activities receiving Federal financial assistance.

The proposed rule included a notice of a public meeting on the proposed rule scheduled for November 27, 1979 from 9:00 a.m. to 5:00 p.m. in the Auditorium of the Department of Health, Education and Welfare, North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201.

The purpose of the public meeting is to provide an opportunity for interested persons to provide oral testimony on the proposed rule. The published notice of the meeting requested that those persons interested in speaking at the meeting have their written requests postmarked by November 9, 1979.

To increase the public participation in the meeting and the comment period, the Department mailed approximately 4,000 copies of the published proposed rule to interested parties, including copies to approximately 200 public and private committees, associations and organizations representing the interests of the handicapped or interested in the problems of the handicapped, many of them with offices in the Washington, D.C. area. Thus far the Department has received only three requests to present oral testimony at the public meeting.

DATE: In view of the lack of public response, the hours of the meeting have been changed from 9:00 a.m. to 5:00 p.m. on November 27, 1979 to 9:00 a.m. to 12 noon on November 27, 1979.

Persons interested in speaking at the public meeting should immediately contact Robert N. Dempsey, Federal Enforcement Section, Civil Rights Division, Department of Justice, Constitution Avenue and 10th Street, N.W., by telephoning (202) 633-2374.

FOR FURTHER INFORMATION CONTACT: For further information on the proposed rule or for tape copies of this proposed rule contact the following:

(1) For LEAA programs: Thomas J. Madden, General Counsel, Law Enforcement Assistance Administration, Telephone: 202/376-3691;

(2) For other Department of Justice Federal assistance programs: Robert N. Dempsey, Federal Enforcement Section, Civil Rights Division, Telephone: 202/633-2374.

Dated: November 20, 1979.

Drew S. Days, III,

Assistant Attorney General, Civil Rights Division.

[FR Doc. 79-36295 Filed 11-21-79; 8:45 am]

BILLING CODE 4410-01-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Reports by Schools; Requirements

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: The proposed regulation states more precisely the time limits within which schools must submit reports concerning interruptions, terminations, course changes, or unsatisfactory progress or conduct of a veteran or eligible person who is receiving educational assistance. In the past when administering this regulation the Veterans Administration found that the regulation was worded vaguely. Schools were uncertain of the length of time they had to make these reports which are required by law. The amended regulation corrects this by setting definite time limits for making these reports.

DATES: Comments must be received on or before December 24, 1979. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until January 3, 1980.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420 (202–389–2092).

SUPPLEMENTARY INFORMATION: Section 21.4203(c), Title 38, Code of Federal Regulations is amended to provide a time limit for schools to report when a nonpunitive grade has been given to a veteran or eligible person. Section 21.4203(d) is amended to state more precisely when the Veterans Administration will consider that a school's report of the interruption, termination or course change of the veteran or eligible person has been made promptly. Section 21.4203(h) is added to state that reports of unsatisfactory progress or conduct must be reported promptly. A cross-reference to these sections is added to § 21.4277.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays), until January 3, 1980. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: November 15, 1979.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. Section 21.4203 is amended as follows:

(a) By deleting the words "wife, husband, widow or widower" and "wife's, husband's, widow's or widower's" and inserting the words "spouse or surviving spouse" and "spouse's or surviving spouse's" in paragraph (e).

(b) By deleting the words "paragraphs (b), (c) and (d) of this section" and inserting the words "paragraphs (b), (c), (d) and (h) of this section" in the second sentence of paragraph (f)(2).

(c) By revising paragraphs (c) and (d) and by adding paragraph (h) so that the added and revised material reads as follows:

§ 21.4203 Reports by schools; requirements.

* * * * *

(c) *Nonpunitive grades.* When a school assigns a nonpunitive grade for a course or subject in which a veteran or eligible person is enrolled, it must report that fact to the Veterans Administration in time for the Veterans Administration to receive the report within 30 days of the date on which the nonpunitive grade is assigned. (38 U.S.C. 1784(a))

(d) *Interruptions, terminations and changes in hours of credit or attendance.* When a veteran or eligible person interrupts or terminates his or her training for any reason, including unsatisfactory conduct or progress, or when he or she changes the number of hours of credit or attendance, this fact must be reported to the Veterans Administration by the school.

(1) If the course in which the veteran or eligible person is enrolled does not lead to a standard college degree and the change in status or change in number of hours of credit or attendance occurs on a day other than one indicated by paragraph (d)(3) or (4) of this section, the school shall submit the report required by this paragraph as follows:

(i) If the quarterly certification of attendance that normally is required for the student is due to be received by the Veterans Administration within 30 days of the date on which the change in status or the change in the numbers of hours of credit or attendance occurs, the report will be included on the quarterly certification.

(ii) If no quarterly certification is due to be received by the Veterans Administration within 30 days of the date on which the change of status or change in the number of hours of credit or attendance occurs, the school will report the change in time for the Veterans Administration to receive the report within 30 days of the date on which the change occurs. This report shall include a certification of the absences of the student since the last quarterly certification was filed or, if no quarterly certification has been filed, the report shall include a certification of the absences of the student since the course begin. (38 U.S.C. 1784(a))

(2) If the course in which the veteran or eligible person is enrolled leads to a standard college degree and the change in status or change in number of hours of credit or attendance occurs on a day other than one indicated by paragrpah (d)(3) or (4) of this section, the school will initiate a report of the change in time for the Veterans Administration to receive the report within 30 days of the date on which the change occurs. (38 U.S.C. 1784(a))

(3) If the enrollment of the veteran or eligible person has been certified by the school for more than one term, quarter or semester and the veteran or eligible person interrupts or terminates his or her training at the end of a term, quarter or semester within the certified period of enrollment, the school shall report the change in status to the Veterans Administration in time for the Veterans Administration to receive the report within 30 days of the last officially scheduled registration date for the next term, quarter or semester. (38 U.S.C. 1784(a))

(4) If the change in status or change in the number of hours of credit or attendance occurs during the 30 days of a drop-add period, the school must report the change in status or change in the number of hours of credit or attendance to the Veterans Administration in time for the Veterans Administration to receive the report within 30 days from the last date of the drop-add period or 60 days from the first day of the enrollment period, whichever occurs first. (38 U.S.C. 1784(a))

* * * * *

(h) *Unsatisfactory progress or conduct.* At times the unsatisfactory progress or conduct of a veteran or eligible person is caused by or results in his or her interruption or termination of training. If this occurs, the interruption or termination shall be reported in accordance with paragraph (d) of this section. If the veteran or eligible person continues in training despite making unsatisfactory progress, the fact of his or her unsatisfactory progress must be reported to the Veterans Administration, if such a report is required, within the time allowed by paragaph (h)(1) and (2) of this section. (38 U.S.C. 1674)

(1) A veteran's or eligible person's progress may become unsatisfactory as a result of the grades he or she receives. The criteria used to determine that the grades received have caused the student's progress to become unsatisfactory may be either those criteria dealing with the unsatisfactory punitive grades found in § 21.4277(a)(2), or the regularly prescribed standards and practices of the school. The school shall report such unsatisfactory progress to the Veterans Administration in time for the Veterans Administration to receive it before the earlier of the following dates is reached.

(i) Thirty days from the date on which the school official, who is responsible for determining whether a student is making progress, first received the final grade report which establishes that the veteran either is not progressing satisfactorily, or

(ii) Sixty days from the last day of the enrollment period during which the veteran or eligible person earned the grades that caused him or her not to meet the satisfactory progress standards. (38 U.S.C. 1674)

(2) If the unsatisfactory progress or conduct of the veteran or eligible person is caused by any factors other than the grades which he or she receives, the school shall report the unsatisfactory progress or conduct to the Veterans Administration in time for the Veterans Administration to receive it within 30 days of the date on which the progress or conduct of the veteran or eligible person becomes unsatisfactory. See also § 21.4277. (38 U.S.C. 1674)

2. Immediately following § 21.4277, a cross reference is added as follows: "Cross Reference: Reports by schools; requirements. See § 21.4203."

(38 U.S.C. 210(c))

[FR Doc. 79-36079 Filed 11-21-79; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 21

Veterans Education; Paying Educational Assistance During Intervals Between Terms

AGENCY: Veterans Administration.

ACTION: Proposed Regulations.

SUMMARY: These proposed regulations state more fully than previously the conditions which must exist before a veteran or eligible person can be paid educational assistance during an interval between terms, quarters and semesters. They also liberalize the payment procedures. The statement of current Veterans Administration policy in the proposed regulation will better inform the general public as well as veterans and other eligible persons as to how these decisions will be made.

DATES: Comments must be received on or before December 24, 1979. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until January 3, 1980.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202-389-2092).

SUPPLEMENTARY INFORMATION: Section 21.4138(f), Title 38, Code of Federal Regulations is amended to make clear that most of the circumstances which will prevent payment for an interval between terms, quarters or semesters when the student remains in the same school will also prevent payment when the student changes schools during the interval. Insofar as is consistent with the law the Veterans Administration wishes neither to encourage nor to discourage a veteran or eligible person from changing schools.

Section 21.4200(b) is amended to provide definitions of "summer term" and "summer session" which are consistent with the use of these terms in § 21.4138 and other sections of Title 38, Code of Federal Regulations.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until January 3, 1980.

Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: November 15, 1979.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. In § 21.4138(f), subparagraphs (2) and (3) are revised and subparagraphs (4), (5), (6) and (7) are added so that the added and revised material reads as follows:

§ 21. 4138 Certifications and release of payments.

* * * * *

(f) *Payment for intervals between terms.* * * *

(2) Except as provided in this subparagraph and paragraph (f)(6) of this section, payments will be made for intervals between consecutive terms, quarters or semesters where the veteran or other eligible person transfers from one approved educational institution for the purpose of enrolling in and pursuing a similar course at the second institution, if the interval does not exceed 30 days. The days for which such a payment is made will count as absences for the purposes of § 21.4205. If the transfer is made to another school and the program in which the student enrolls at the second institution is different from that he or she was pursuing at the first school no payment may be made for the interval.

(3) Except as provided in paragraph (f)(6) of this section, payments will be made for periods between semesters or quarters as defined by § 21.4200(b), and between semesters or quarters and a term (other than a summer term), if the veteran or eligible person remains at the same educational institution and the interval does not exceed 1 full calendar month. The days for which payment is made will count as absences for the purposes of § 21.4205.

(4) Except as provided in paragraph (f)(6) of this section, payments will be made for periods between consecutive terms other than quarters or semesters as defined in § 21.4200(b), but not between terms and summer terms, if the

veteran or eligible person remains at the same educational institution and the interval does not exceed 1 full calendar month. The days for which payment is made will count as absences for the purposes of § 21.4205.

(5) Except as provided in paragraph (f)(6) of this section, payments will be made for intervals between terms, quarters or semesters and a summer term or summer session, and for intervals between summer sessions within a summer term, where the veteran or other eligible person remains enrolled in the same school, if the interval does not exceed 30 days. The days for which such a payment is made shall count as absences for the purposes of § 21.4205.

(6) No payment will be made for the intervals described in paragraph (f)(2), (3), (4) and (5) of this section if:

(i) The student is training at less than the half-time rate on the last date of his or her training during the term, quarter, semester or summer term preceding the interval;

(ii) The student is on active duty;

(iii) The student requests, prior to authorization of an award or prior to negotiating the check, that no benefits be paid for the interval period;

(iv) The student will exhaust his or her entitlement by receipt of such payment, and it is to the advantage of the individual not to receive payment;

(v) The interval occurs between school years at a school which is not organized on a term, quarter or semester basis; or

(vi) The veteran or eligible person withdraws from all his or her courses in the term, quarter, semester or summer session preceding the interval, or discontinues training before the scheduled start of an interval in a school not organized on a term, quarter, or semester basis. (38 U.S.C. 1780)

(7) A veteran or eligible person who is enrolled in overlapping enrollment periods (either at the same or different schools) and who is entitled to a payment for an interval shall be paid at the highest monthly rate attributable to any portion of the enrollment which qualifies the claimant for interval payment under paragraph (f)(2), (3), (4), and (5) of this section. (38 U.S.C. 1780(a))

2. In § 21.4200 paragraph (b)(5) is revised and paragraph (b)(6) is added so that the added and revised material reads as follows:

§ 21.4200 Definitions.

* * * * *

(b) *Divisions of the school year.* * * *

(5) "Summer term", the whole of the period of instruction at a school which takes place between ordinary school years. A summer term may be divided into several summer sessions. (38 U.S.C. 1780(a)

(6) "Summer session", any division of a summer term. (38 U.S.C. 1780(a)

* * * * *

(38 U.S.C. 210(c))

[FR Doc.79-36080 Filed 11-21-79; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1358-5]

State Implementation Plans; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas—Supplement (on the Aftermath of the Granting of Conditional Approvals for State Implementation Plans)

AGENCY: Environmental Protection Agency.

ACTION: General Preamble for proposed rulemaking—Supplement.

SUMMARY: Provisions of the Clean Air Act enacted in 1977 require States to revise their State Implementation Plans (SIPs) for all areas that have not attained national ambient air quality standards (NAAQS). The Agency is now taking action on whether each of the State submittals should be approved. Today's Supplement provides information on how EPA will administratively handle the approval/disapproval actions for those portions of SIPs where conditional approvals have been issued.

FOR FURTHER INFORMATION CONTACT: The appropriate EPA Regional Office listed on the first page of the General Preamble (44 FR 20372) or the following Headquarters office: G. T. Helms, Chief, Control Programs Operation Branch, Control Programs Development Division, EPA Office of Air Quality Planning and Standards (MD-15), Research Triangle Park, North Carolina 27711, (919) 541-5365 or 541-5226.

SUPPLEMENTARY: In the April 4, 1979, issued of the **Federal Register**, EPA published a General Preamble identifying and summarizing the major considerations that will guide EPA's evaluation of the submittals (44 FR 20372). A discussion of the conditional approval option available to EPA was included in the General Preamble. This option would allow EPA to approve portions of the States' plans which had only minor deficiencies while specifying a schedule for submission of the needed corrections. In those cases where a State has submitted the prescribed materials according to their schedule, EPA will forward for publication in the **Federal Register**, a "Notice of Receipt" as soon as possible after receiving the State's submittal. This notice will indicate EPA has received the State submission and is reviewing the submittal to determine its adequacy. The notice will also reiterate that the conditional approval status of the SIP is continued until final action is taken and published in the **Federal Register**. After completion of the review, EPA will expeditiously approve or disapprove the State's submittal. A second conditional approval is not an available option for acting upon a State's submission in response to an original conditional approval. The determination of the adequacy of the State's submission will be published in the **Federal Register** as either a proposed action or as a final rulemaking depending on the nature of the State's submittal and the need for further public evaluation and comment. If the State's submittal is determined to be inadequate, the final rulemaking notice will explain that the Section 110(a)(2)(I) restrictions on growth will be in effect as of publication of the final disapproval notice.

In those cases where a State has failed to meet a scheduled commitment date, the SIP must be disapproved. Prior notice of the consequences of failure to meet a condition will have been provided in either the proposed or final conditional approval action. Consequently, when the State fails to meet a scheduled commitment, a final rulemaking notice will be published in the **Federal Register** indicating disapproval for failure to meet the required commitments. This notice will also state that the new source restrictions are in effect for those sources applying for construction permits after the date of publication.

In the case where a State misses the original deadline and submits the required information and/or regulations after EPA has taken final disapproval action, EPA will evaluate the submittal and either publish a proposal or final rulemaking notice indicating EPA's findings as appropriate. During the period prior to publication of the final **Federal Register** notice approving the SIP (if appropriate), the restrictions specified in Section 110(a)(2)(I) will be in effect.

(Secs. 110(a), 172, Clean Air Act, as amended (42 U.S.C. 7410(a), 7502)).

Dated: November 6, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 79-36055 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 65

[FRL 1365-2]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Delayed Compliance Order for the City of White Plains, New York

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw a prior **Federal Register** notice proposing the issuance of a Delayed Compliance Order to the City of White Plains, New York. This action is being taken because compliance with the State Implementation Plan provisions covered by the proposed Order has been achieved by the City, through the termination of operations at the subject Municipal Incinerator.

DATE: This withdrawal is effective November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Walter E. Mugdan, Attorney, General Enforcement Branch, Enforcement Division, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, N.Y. 10007 (212) 264-4434.

SUPPLEMENTARY INFORMATION: A **Federal Register** notice published at 44 FR 26929, May 8, 1979, solicited public comments and offered the opportunity to request a public hearing on a proposed Delayed Compliance Order to be issued by the Environmental Protection Agency to the City of White Plains, New York. White Plains had been operating its Municipal Incinerator in violation of Title 6, Sections 201.2(b), and 222.3 (a) and (b), Official Compilation of Codes, Rules and Regulations of the State of New York, portions of the applicable State Implementation Plan. Prior to any publication of a notice of final rulemaking with respect to this proposed Order, the City of White Plains terminated all operations at its Municipal Incinerator. It is presently having its solid waste removed by a private carter; the City has publicly expressed its intention to join the Westchester County Solid Waste disposal program. No comments, and no requests for a public hearing were received.

In consideration of the foregoing, the proposal published in the **Federal Register** at 44 FR 26929 on May 8, 1979, entitled "Proposed Delayed Compliance Order for the City of White Plains, New York", is hereby withdrawn.

Dated: November 8, 1979.

Richard Dewling,

Acting Regional Administrator.

[FR Doc. 79-36063 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 713

[FRL 1353-5; OTS-81005 A]

Reporting Requirements; Submission of Notice of Manufacture or Importation of PBB's and Tris; Corrections

Correction

In FR Doc. 79-34602 appearing on page 64844 in the issue of Thursday, November 8, 1979, in the second column, paragraph (f) should have read as follows:

(f) Page 59109, second column, "§ 713.11(j)", sixth line, the molecular formula "$C_{10}H_xBr_y$" should read "$C_{12}H_xBr_y$".

BILLING CODE 1505-01-M

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40 CFR Part 774

[FRL 1364-4; OPTS-48001A]

Data Reimbursement Under Sections 4 and 5 of the Toxic Substances Control Act; Extension of Comment Period

AGENCY: U.S. Environmental Protection Agency [EPA].

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for the advance notice of proposed rulemaking on data reimbursement under sections 4 and 5 of the Toxic Substances Control Act (TSCA), published September 18, 1979 (44 FR 54284). The comment period will close January 17, 1980 instead of November 19, 1979.

The Chemical Manufacturers' Association (CMA) requested additional time to develop and submit a comprehensive scheme for cost-sharing and reimbursement. The extension of time has been granted in response to this request and to allow EPA to solicit comments from other interested parties.

DATE: Comments on the issues in this rulemaking must be submitted on or before January 17, 1980, in order to ensure their consideration in the development of the proposed rule.

ADDRESS: Written views and comments should bear the document control number OTS-48001 and should be addressed to the Document Control Officer, Office of Toxic Substances (TS-793), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 or submitted to the same office in Room 447, East Tower at the above address, Monday through Friday, 8:30 a.m. to 4:00 p.m. The rulemaking record for this docket is available for inspection in the room mentioned above.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Pesticides and Toxic Substances (TS-799), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone (toll-free) 800-424-9065 or in Washington, 544-1404.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 79-36044 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

41 CFR Part 3-1

Protection of Privacy of Individuals

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare is proposing to establish a new procurement regulation regarding the protection of privacy of individuals.

The regulation implements the Privacy Act of 1974 (Pub. L. 93-579, December 31, 1974; 5 U.S.C. 552a), the Department's implementation of the Privacy Act (45 CFR Part 5b), and the Federal Procurement Regulation implementation of the Privacy Act (41 CFR 1-1.327).

DATE: Comments must be received by December 24, 1979.

ADDRESS: Any person or organization wishing to submit data, views, or comments pertaining to the proposed regulation may do so by filing them with Ed Lanham, Division of Procurement Policy and Regulations Development, OGP-OASMB-OS, Room 538H—Hubert H. Humphrey Building, Department of Health, Education, and Welfare, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Ed Lanham, telephone 202–245–0481.

SUPPLEMENTARY INFORMATION: Section 3–1.327–4(a) of the proposed rule refers to "45 CFR 5b.16." This is the section in the Department's draft revision of its Privacy Act implementation rule which discusses Privacy Act coverage of Government contractors. The Department will issue this revision as a Notice of Proposed Rulemaking in the near future.

It is proposed to amend 41 CFR Chapter 3 in the manner set forth below.

Dated: November 9, 1979.

Murray N. Weinstein,

Acting Deputy Assistant Secretary for Grants and Procurement.

Under Subpart 3–1.3, General Policies, of Part 3–1, General, section 3–1.327, Protection of the privacy of individuals, is proposed to be added to 41 CFR Chapter 3 as indicated below. In addition, the table of contents for Part 3–1 is proposed to be amended to add the following:

PART 3–1—GENERAL

Subpart 3–1.3—General Policies

* * * * *

Sec.

3–1.327 Protection of the privacy of individuals.
3–1.327–1 General.
3–1.327–2 [Reserved.]
3–1.327–3 [Reserved.]
3–1.327–4 Applicability.
3–1.327–5 Procedures.

* * * * *

§ 3–1.327 Protection of the privacy of individuals.

§ 3–1.327–1 General.

(a) This section implements 45 CFR Part 5b, Privacy Act Regulations, and FPR § 1–1.327, Protection of the privacy of individuals, which implement the Privacy Act of 1974 (P.L. 93–579, December 31, 1974; 5 U.S.C. 552a) and OMB Circular No. A–108, July 9, 1975.

(b) It is the Department's policy to protect the privacy of individuals to the maximum possible extent while permitting the exchange of records required to fulfill the Department's administrative and program responsibilities and its responsibilities for disclosing records to which the general public is entitled under the Freedom of Information Act (5 U.S.C. 552).

(c) In regard to the procurement process, it is the Department's policy to guard the individual's right of privacy whenever a Departmental system of records on individuals (See § 1–1.327–2(e) for definition) is operated under contract rather than by the Department. The individual's privacy will be protected by the Department requiring the contractor to observe all the rules of privacy that apply to the Department (See § 1–1.327–3).

§ 3–1.327–2 [Reserved]

§ 3–1.327–3 [Reserved]

§ 3–1.327–4 Applicability.

(a) The Privacy Act of 1974 and the Department's implementation under 45 CFR Part 5b apply "when an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish any agency function * * *" The key factor is whether a Departmental function is involved. Therefore, the Privacy Act requirements apply to a Departmental contract when, under the contract, the contractor must maintain or operate a system of records to accomplish a Departmental function. 45 CFR 5b.16 gives examples of systems, maintained by contractors, which are covered and systems, maintained by contractors, which are not covered.

(b) The contracting officer, with the assistance of the program official, and, as necessary, the official designated as the activity's Privacy Act coordinator and the Office of General Counsel, shall determine the applicability of the Act to each procurement.

(c) Whenever the contracting officer determines that the Privacy Act is not applicable, but the resultant contract will involve the collection of individually identifiable personal data by the contractor, the contracting officer shall include provisions to protect the confidentiality of the records and the privacy of individuals identified in the records. In addition, the contracting officer shall include in the procurement file documentation of the determination that the Privacy Act is not applicable. However, documentation is not required for obvious procurements not involving the Privacy Act, such as supply contracts or contracts which do not involve the collection of data on individuals.

§ 3–1.327–5 Procedures.

(a) All procurements shall be reviewed by the contracting officer to determine whether the Privacy Act requirements are applicable. If applicable, the contracting officer shall accomplish the actions required by § 1–1.327–5 and shall include the solicitation notification and contract clause required by § 1–1.327–5(b) and (c), respectively, in all instances specified by those paragraphs. In addition, the contracting officer shall ensure that the solicitation notification, contract clause, and other pertinent information specified in this § 3–1.327 are included in any contract modification which results in the Privacy Act requirements becoming applicable to the contract.

(b) The contracting officer shall identify the system(s) of records on individuals in solicitations, contracts, and contract modifications to which the Privacy Act and the implementing regulations are applicable.

(c) The contracting officer shall include in the contract the disposition to be made of the system(s) of records on individuals upon completion of performance of the contract. For example, the contract may require the contractor to completely destroy the records, to remove personal identifiers, to turn the records over to the Department, or to keep the records, but take certain measures to keep the records confidential and protect the individual's privacy.

(d) The contracting officer shall include a statement in the contract notifying the contractor that the contractor and its employees are subject to criminal penalties for violations of the Act (5 U.S.C. 552a(i)) to the same extent as employees of the Department. The contracting officer shall provide the contractor with a copy of the rules of conduct and other requirements set forth in 45 CFR 5b.

(e) Whenever a procurement is determined to be subject to the Privacy Act requirements, a "system notice," prepared by the program official and describing the Department's intent to establish a new system of records on individuals, to make modifications to an existing system, or to disclose information in regard to an existing system, is required to be published in the **Federal Register.** A copy of the "system notice" shall be attached to the request for contract or purchase request. If a "system notice" is not attached, the contracting officer shall inquire about its status and shall obtain a copy from the program official for inclusion in the procurement file. If a "system notice" has not been published in the **Federal Register**, the contracting officer may proceed with the procurement but shall not award the contract until the "system notice" is published, and publication is verified by the contracting officer.

[FR Doc. 79–36141 Filed 11–21–79; 8:45 am]

BILLING CODE 4110–12–M

41 CFR Parts 3-1 and 3-7

Confidentiality of Information

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare is proposing to amend the HEW Procurement Regulations (HEWPR) to incorporate Section 3-1.357, Confidentiality of Information, and to incorporate a clause for its implementation (Subpart 3-7.5028)

The amendments are being made to provide Departmental coverage for cases where the contractor handles confidential information, which is not subject to provisions of the Privacy or Freedom of Information Acts. The Confidentiality of Information clause which was previously contained in HEWPR § 3-7.5010 was too broad in coverage and did not contain guidance enabling contracting officers to selectively include it in contracts. This regulation provides specific examples of areas which are likely to be subject to these provisions and specifies a contractor's responsibilities in handling confidential information.

This coverage will enable contracting officers to include the clause only in those contracts which are expected to involve confidential material which is not subject to provisions of the Privacy or Freedom of Information Acts. It will also protect contractors from an undue amount of consultation with Departmental representative prior to the release or utilization of data under a contract.

DATES: Comments must be received on or before January 6, 1980. Any person or organization wishing to submit data, views or comments pertaining to the proposed amendments may do so by filing them with the individual at the address listed below:

ADDRESS: Send comments to David J. Eskenazi, Division of Procurement Policy and Regulations Development, OGP-OASMB-OS, Room 539H, Hubert H. Humphrey Building, Department of Health, Education, and Welfare, 200 Independence Avenue, S.W. Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: David J. Eskenazi, Division of Procurement Policy and Regulations Development, OGP (202-245-8791).

It is therefore proposed to amend 41 CFR Chapter 3, Parts 1 and 7 in the manner set forth below:

(5 U.S.C. 301; 40 U.S.C. 486(c))

Dated: November 9, 1979.

Murray N. Weinstein,

Acting Deputy Assistant Secretary for Grants and Procurement.

PART 3-1—GENERAL

The following section is added to Subpart 3-1.3 and to the Table of contents of that subpart.

Subpart 3-1.3—General Policies

* * * * *

Sec.

3-1.357 Confidentiality of information.

* * * * *

Subpart 3-1.3—General Policies

§ 3-1.357 Confidentiality of information

(a) *General.* This subpart advises contractors of their resonsibilities in handling confidential information, which are not subject to the provisions of the Privacy or Freedom of Information Acts. It contains provisions that are to be included in applicable Requests for Proposals (RFPs) and contracts. These will protect contractors from an undue amount of consultation with awarding agencies before the release or utilization of data, by defining the kinds of data that requires confidential treatment.

(b) *Application of the clause.* The clause set forth in § 3-7.5028 should be considered for use in contracts where confidentiality of information provisions may apply, as provided in § 3-1.357(a). Examples of situations where this clause should be considered for use include:

(1) Studies involving the handling of personally identifiable data, such as medical records, vital statistics, surveys, and questionnaires.

(2) Salary structures, wage schedules, proprietary plans or processes, and confidential financial information on organizations.

(3) Unverified scientific leads, and early results of animal or clinical testing.

With regard to protecting individuals, this regulation is not meant to regulate or control the method of selecting subjects and performing studies or experiments involving them. These questions are dealt with in the HEW regulation entitled "Protection of Human Subjects," 45 CFR Part 46. If a contract or portions thereof are determined to be subject to the requirements of the Privacy Act, in accordance with the Federal Procurement Regulations (41 CFR Part 1-1. 327) or the HEW General Administration Regulations (41 CFR Part 5b), the Privacy Act procedures and clauses cited in those references shall be included in the contract, in addition to this clause. This clause applies to confidential data utilized or generated under the contract which are not subject to the more detailed requirements of the Privacy Act.

(c) *Required clause.* The clause set forth in § 3-7.5028 shall be included in any RFP and resultant contract(s) which is expected to be for an amount in excess of $10,000, and where it has been determined that confidentiality of information provisions may apply. Any RFP announcing the intent to include this clause in any resultant contract(s) shall indicate as specifically as possible the types of data which would be covered and requirements for handling such data.

PART 3-7—CONTRACT CLAUSES

The following clause is added to Subpart 3-7.50 Special Contract Clauses and to the Table of Contents for that subpart.

Subpart 3-7.50—Special Contract Clauses

* * * * *

Sec.

3-7.5028 Confidentiality of Information.

* * * * *

Subpart 3-7.50—Special Contract Clauses

§ 3-7.5028 Confidentiality of Information.

The following clause is covered by the policy set forth in Subpart 3-1.3 and is to be used in accordance with the instructions set forth in § 3-1.357.

Confidentiality of Information

(a) Confidential information, as used in this clause, includes, but is not limited to, (1) information or data of a personal nature about an individual, (2) proprietary information or data submitted by or pertaining to an institution or organization, or (3) information or data which represents findings or results which, if disclosed prematurely, might adversely affect the public and the Government's formulation of public policy with respect thereto.

(b) The Contracting Officer may identify elsewhere in this contract specific information and/or categories of information which the Government will furnish to the Contractor or that the Contractor is expected to generate, which is confidential. Similarly, the Contracting Officer may identify such confidential information from time to time during the performance of the contract.

(c) If it is established elsewhere in this contract that information to be utilized under this contract or a portion thereof, is subject to the Privacy Act, the Contractor will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. 522a, and

implementing regulations and policies, with respect to systems or records determined to be subject to the Privacy Act.

(d) The Contractor shall not disclose confidential information without the prior approval of the Contracting Officer. Whenever the contractor is uncertain with regard to the proper handling of material under the contract, or if the material in question is subject to the Privacy Act or is confidential information subject to the provisions of this clause, the Contractor should obtain a written determination from the Contracting Officer prior to any release, disclosure, dissemination or publication.

[FR Doc. 79-36140 Filed 11-21-79; 8:45 am]
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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 5738]

National Flood Insurance Program; Proposed Flood Elevation Determinations

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

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 each community.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Room 5148, 451 7th Street S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, 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:

Proposed Base (100-year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	City of Clarksville, Johnson County.	Spadra Creek	Just downstream of Cherry Street	*378
			Just upstream of Missouri-Pacific Railroad	*380
		Tributary 1	Just upstream of Interstate HWY 40	*358
		Greenbier Creek	Just upstream of Missouri-Pacific Railroad	*390
			Just upstream of Cherry Street	*406
		Little Willet Branch	Just upstream of U.S. HWY 64	*365
			Just upstream of Quarter-Line Road	*369
	Maps available at: City Hall, Walnut Street, Clarksville, Arkansas 72830.			
	Send comments to: Mayor Sterling Hurley or Ms. Ann Schmatjen, Assistant Administrator, City Hall, P.O. Box 409, Clarksville, Arkansas 72830.			
Arkansas	City of Mammouth Spring, Fulton County.	Spring River	Just downstream of State HWY 63	*502
		Warm Fork Spring River	Just downstream of St. Louis-San Francisco Railway	*504
		Town Branch	Just upstream of State Highway 63	*506
			Just upstream of Bronson Avenue	*524
	Maps available at: City Hall, 110 Main Street, Mammoth Springs, Arkansas 72554.			
	Send comments to: Mayor Freddie R. Cullinson or Ms. Cathlene Autry, City Clerk, City Hall, P.O. Box 185, Mammoth Springs, Arkansas 72554.			
Delaware	Ocean View, Town; Sussex County.	Indian River Bay	All area between Assawoman Canal and Route 26, adjacent to White Creek and White Creek Ditch.	*6
	Maps available at: The Town Hall.			
	Send comments to: Mr. Wayne C. Breasure, President of the Council of Ocean View, Oakwood Avenue, Ocean View, Delaware 19970.			
Idaho	Middleton (City), Canyon County	Boise River	400 feet upstream from confluence with Willow Creek	*2,382
			120 feet upstream from confluence with Mill Creek	*2,384
		Willow Creek	70 feet upstream from center of State Highway 44 (Main Street)	*2,401
			Intersection of Concord Street and Elderberry Drive	*2,411
			Intersection of 8th Street North and Hawthorne Drive	*2,413
	Maps available at: City Hall, 15 North Dewey, Middleton, Idaho.			
	Send comments to: Honorable Alice Lanning, Mayor, City of Middleton, City Hall, Box 176, Middleton, Idaho 83644.			
Louisiana	Village of Gilbert, Franklin Parish	Deer Creek	Approximately 400 feet upstream of Louisiana HWY 572	*69
			Just upstream of downstream of corporate limits	*66
	Maps available at: City Clerk's Office, Franklin Parish Courthouse, Winnsboro, Louisiana 71295.			
	Send comments to: Mayor Charles Holcomb or Assistant Mayor Protem Jim Meredith, City Hall, P.O. Box 573, Gilbert, Louisiana 71336.			

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Louisiana	Village of Tallulah, Madison Parish.	Panola Bayou	Just upstream of Fish Street, extended	*79
	Maps available at: City Clerk's Office, 204 North Cedar, Tallulah, Louisiana 71282.			
	Send comments to: Mayor Leander A. Anthony or Mr. Moses Jackson, City Clerk, 204 North Cedar, Tallulah, Louisiana 71282.			
Maryland	Pocomoke City, Worcester County.	Pocomoke River	Entire Shoreline	*6
	Maps available at: The City Hall.			
	Send comments to: Mr. Russell Blake, Pocomoke City Manager, P.O. Box 29, Pocomoke City, Maryland 21851.			
New York	Montour Falls, Village, Schuyler County.	Barge Canal	Downstream Corporate Limits	*449
			Confluence of Diversion Channel	*449
			Confluence of Catherine Creek	*449
		Diversion Channel	Confluence with Barge Canal	*449
			Upstream Access Bridge	*451
			Upstream Clawson Boulevard, Route	*457
			Confluence of Catlin Mill Creek	*459
			Ayres Street, Route 14	*468
			Confluence of Catherine Creek	*469
		Catlin Mill Creek	Confluence with Diversion Channel	*459
			500' upstream of confluence with Catharine Creek	*465
			420' downstream, Skyline Drive	*470
			Skyline Drive	*476
			490' upstream, Skyline Drive	*485
			930' upstream, Skyline Drive	*493
		Havana Glen Creek	Confluence with Diversion Channel	*469
			Ayres Street, Route 14	*469
			695' upstream Ayres Street, Route 14	*475
			1,270' upstream, Ayres Street, Route 14	*482
		Catharine Creek	Confluence with Barge Canal	*449
			Ayres Street	*450
			Confluence of Shequaga Creek	*451
			650' downstream, upstream Corporate Limits	*469
			Upstream Corporate Limits	*470
	Maps available at: The Municipal Building.			
	Send comments to: Honorable Gwen Snow, Mayor of Montour Falls, Municipal Building, 330 West Main Street, Montour Falls, New York 14885.			
North Carolina	Town of Catawaba, Catawba County.	Lyle Creek	Just upstream of N.C. 10	*774
		Town Creek	Just upstream of S.R. 1004	*818
			Just upstream of S.R. 1822	*841
	Maps available at: Mayor's Office, Catawba City Hall, Catawba, North Carolina 28609			
	Send comments to: Mayor John Elmore, Jr., P.O. Box 428, Catawba, North Carolina 28609.			
North Carolina	Unincorporated Areas of Catawba County.	Lyle Creek	Just upstream of N.C. 10	*775
			Just downstream of I 64, I 70	*788
			Just downstream of SR 1709	*829
			Approximately 1,100 feet downstream of SR 1441	*936
		McLin Creek	Just downstream of SR 1722	*778
			Just upstream of SR 1731	*868
			Just upstream of SR 1746	*919
		West Tributary McLin Creek	Approximately 3,400 feed downstream of SR 1736	*915
		Hagan Fork Creek	Just upstream of SR 1727	*813
			Just downstream of N.C. 10	*821
			Just upstream of Sr 1806	*861
		Mill Creek	Just upstream of I 40	*860
		Bakers Creek	Just upstream of N.C. 16	*870
			Just upstream of SR 1512	*889
		Conover Creek	Just upstream of SR 1712	*876
		Cline Creek	Just downstream of SR 1164	*870
			Just upstream of U.S. Highway, 321, 64, 70	*883
			Just upstream of SR 1488	*900
		Cline Creek North	Just downstream of SR 1486	*893
		Propst Creek	Approximately 750 feet upstream of SR 1683	*920
			Approximately 200 feet downstream of SR 1492	*1006
		Herman Branch Creek	Just upstream of SR 1544	*918
			Just downstream of SR 1621	*978
		Clark Creek	Approximately 450 feet upstream of SR 2012	*812
			Approximately 500 feet downstream of SR 201	*824
			Just upstream of SR 1165	*861
		Miller Branch Creek	Approximately 150 feet downstream of SR 1478	*894
		Smyre Creek	Approximately 125 feet downstream of SR 1880	*847
		South Fork Catawba River	Just upstream of N.C. 10	*820
		Henry Fork	Just upstream of SR 1144	*833
			Just upstream of SR 1124	*918
		Snow Creek	Just upstream of SR 1507	*974
		Long Shoal Creek	Just upstream of SR 1529	*940
			Just downstream of SR 1511	*984
		Elk Shoal Creek	Just upstream of SR 1703	*877
			Just upstream of SR 1702	*926
		Dellinger Creek	Just upstream of SR 1702	*961
		Long Creek	Approximately 1900 feet upstream of the Confluence with McLin Creek.	*869
			Just downstream of the Southern Railway	*945

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Town Branch	Approximately 2100 feet downstream from SR 1004	*799
		Bills Creek	Just upstream of U.S. Highway 321	*835
		Betts Branch	Just downstream of SR 2012	*812
		Pinch Gut Creek	Approximately 150 feet downstream of SR 1882	*830
			Just downstream of SR 1880	*851
		Maiden Creek	Approximately 200 feet downstream of SR 1867	*880
		Allen Creek	Approximately 200 feet downstream of SR 1867	*880
		Naked Creek	Just upstream of SR 1453	*960
	Maps available at: Planning Office, County Administration Building, Newton, North Carolina 28658.			
	Send comments to: Mr. Kenneth E. Martin, P.O. Box 389, Newton, North Carolina, 28658.			
North Carolina	City of Conover, Catawba County.	Lyle Creek	Just upstream of S.R. 1484 Bridge	*894
			Just upstream of S.R. 1490 Bridge	*905
		Propst Creek	Approximately 25 feet downstream of S.R. 1583 Bridge	*915
		Conover Creek	Approximately 130 feet upstream of I–40 Bridge	*927
			Approximately 100 feet upstream of 7th Street Bridge	*934
			Approximately 75 feet downstream of 5th Street Bridge	*948
		Mull Creek	Approximately 100 feet upstream of SP 1714	*929
	Maps available at: Conover City Office, 101 First Street West, Conover, North Carolina 28613.			
	Send Comments to: Mayor Harvey Hawn or Mr. Ed Robinett, City Manager, P.O. Box 485, Conover, North Carolina 28613.			
North Carolina	City of Hickory, Catawba County...	Lyle Creek	Approximately 100 feet upstream of SR 1599	*1,005
			Just upstream of SR 1612	*1,055
			Just upstream of SR 1447	*1,090
		Herman Creek	29th Street N.E. (Extended)	*1,034
			27th Street N.E. (Extended)	*1,044
		Hickory Creek	Just upstream of 9th street	*1,080
			Just downstream of 20th street (SR 1447)	*1,090
		Clarks Creek	Just downstream of US 70,64,321	*879
			Approximately 200 feet downstream of SR 1468	*893
		Miller Branch	Approximately 130 feet downstream of SR 1478	*894
			Approximately 1500 feet downstream of SR 1692	*965
		Henry Fork	Approximately 1000 feet upstream of US 321 bridge	*883
			Approximately 275 feet upstream of SR 1124 bridge	*918
		Henry Fork Tributary One	Approximately 75 feet of SR 1170 bridge	*934
			Approximately 300 feet downstream of US 70,64,321	*998
		Falling Creek	Approximately 300 feet upstream of SR 1400	*961
			Approximately 720 feet downstream of SR 1404 bridge	*999
		Falling Creek Tributary Two	Just downstream of 12th Avenue N.E.	*1088
		Catawba River Tributary One	Just upstream of SR 1333	*987
			Approximately 75 feet upstream of SR 1331 bridge	*1007
		Snow Creek	Approximately 250 feet upstream of SR 1507	*975
			Just upstream of SR 1400	*1,012
			Just upstream of 14th Avenue	*1,084
		Horseford Creek	14th Avenue N.W. (Extended)	*979
		Cripple Creek	Approximately 95 feet upstream of 6th Street N.W.	*1,050
			Just upstream of 4th Street N.W.	*1,062
			Approximately 65 feet upstream of Lenoir Road	*1,015
			Approximately 120 feet upstream of US 321	*1,038
		Geitner Branch	Approximately 100 feet upstream of center line of U.S. 64, 70	*997
			Approximately 125 feet upstream of 9th Street culvert entrance	*1,016
		Geitner Branch Tributary One	Approximately 60 feet upstream of 7th Avenue	*1,026
		Geitner Branch Tributary Two	Just upstream of 7th Avenue S.W.	*1,055
			4th Street S.W.	*1,069
		Longview Creek	Approximately 90 feet upstream of Interstate 40 culvert entrance	*893
			Just upstream of 9th Street	*1,012
		Longview Creek Tributary One	SR 1189	*1,038
			U.S. 64–70	*1,087
		Longview Creek Tributary Two	At downstream corporate limits	*1,038
		Barger Branch	Just upstream of SR 1173	*907
			Approximately 75 feet upstream of 10th Avenue S.E.	*1,037
		Barger Branch Tributary One	8th Avenue S.E.	*1,072
		Barger Branch Tributary Two	Approximately 300 feet upstream of Confluence with Barger Branch	*1,008
		Barger Branch Tributary Three	8th Avenue S.E.	*1,083
	Maps available at: Director of Planning, P.O. Box 398, Hickory, North Carolina 28601.			
	Send comments to: Mayor George Murphy or Wilfred Well, City Manager, City Hall, P.O. Box 398, Hickory, North Carolina 78338.			
North Carolina	Town of Maiden, Catawba County	Maiden Creek	Just upstream of State Road 2007	*805
			Approximately 450 feet upstream of US 321	*812
			Just upstream of State Road 1810	*830
		Allen Creek	Just upstream of State Road 1870 Extended	*840
		Clarks Creek	Just upstream of State Road 2007	*804
		Holly Branch	Just upstream of State Road 2005	*818
		Pinch Gut Creek	Approximately 100 feet downstream of Northwestern Railroad	*809
			Approximately 400 feet upstream of US 321	*810
	Maps available at: Town Manager's Office, City Hall, 113 W. Main Street, Maiden, North Carolina 28650.			
	Send comments to: Mayor W. H. Adams or D. D. Freeman, City Manager, City Hall P.O. Box 125, Maiden, North Carolina 77538.			
North Carolina	City of Newton, Catawba County..	Clarks Creek	Approximately 250 feet upstream of the Confluence of Smyre Creek	*829
			Just upstream West C Street (NC Hwy 10)	*839
			Approximately 270 feet downstream Hwy 1149	*849
		Hildebran Creek	Approximately 200 feet upstream of Hwy 10	*838
			Approximately 75 feet upstream of SR 1154	*851
			Approximately 100 feet downstream of West 1st Street	*867
			Just upstream of SR 1156	*913

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Smyre Creek	Downstream of Hwy 321	*833
			Approximately 140 feet downstream of Hwy 1880	*847
		Town Creek	Approximately 30 feet upstream of P Street	*836
			Approximately 200 feet upstream of South Caldwell Avenue	*869
		Snow Hill Branch	Just upstream SR 1880	*869
			Just upstream of Hwy 16	*875
			Approximately 50 feet upstream of SR 1736	*901
		McLin Creek	At East 11th Street	*936
			Approximately 170 feet upstream of SR 1739	*940
			Approximately 30 feet upstream of Confluence of East Tributary McLin Creek.	*944

Maps available at: City, Hall, P.O. Box 550, Newton Carolina 28658.

Send comments to: Mayor Wayne Dellinger or Mr. R. Duke Whisemant, City Manager, P.O. Box 550, Newton, North Carolina 28658.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	Mount Vernon, City, Knox County.	Kokosing River	Downstream Corporate Limits	*973
			Upstream South Main Street	*984
			Fountain Street (Extended)	*990
			Upstream Corporate Limits	*998
		Center Run	Downstream East Gambler Avenue	*980
			Upstream East Vine Street	*985
			Upstream East Chestnut Street	*990
			Upstream Beech Street	*998

Map available at: The City Hall, Mount Vernon, Ohio.

Send comments to: Honorable Claude S. Schlosser, Mayor of Mount Vernon, 40 Public Square, Mount Vernon, Ohio 43050.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Oklahoma	City of Hominy, Osage County	Penn Creek	Just upstream of State Highway 99 Eastern Ave	*766
		Claremore Creek	Just upstream of Kathy Avenue	*776

Maps available at: City Hall, P.O. Box 219, Hominy, Oklahoma 74035.

Send comments to: Mayor J. E. Sheppard or Ms. Betty Helm, City Manager, P.O. Box 219, Hominy, Oklahoma 74035.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Borough of Blawnox, Allegheny County.	Allegheny River	Downstream Corporate Limits	*740
			Upstream Corporate Limits	*741

Maps available at: The Borough Hall.

Send comments to: Honorable Thomas M. Smith, Mayor of Blawnox, 930 Center Avenue, Blawnox, Pennsylvania 15238.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Haycock, Township, Bucks County.	Tohickon Creek	Confluence of Kimples Creek	*469
			Union Road (Downstream)	*480
		Kimples Creek	Confluence with Tohickon Creek	*469
			Old Bethlehem Road (Downstream)	*478
			Roudenbush Road (Downstream)	*482
			Lake Towhoe (Downstream)	*484
		Haycock Creek	Church Road (Downstream)	*400
			Haycock Run Road	*436

Maps available at: The Township Municipal Building.

Send comments to: Mr. Earl Winters, Chairman of the Board of Supervisors of Haycock, Municipal Building, R.D. 3, Harrisburg School Road, Quakertown, Pennsylvania 18951.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Lykens, Borough, Dauphin County	Rattling Creek	Downstream Corporate Limits	*642
			Edwards Street	*671
			Market Street	*707
			Dam	*729
			Glen Park Road	*761
			Upstream Corporate Limits	*768
		Wiconisco Creek	Main Street	*649
			Market Street	*679
			Upstream Corporate Limits	*683

Maps available at: The Borough Building.

Send comments to: Mr. Earl Buffington, President of the Borough Council of Lykens, 622 South Street, Lykens, Pennsylvania 17048.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Township of Monaghan, York County.	Yellow Breeches Creek	Downstream Corporate Limits	*376
			Wharf Road	*380
			Township Route 612 (upstream side)	*399
			Gilbert Road (Upstream side)	*409
			Upstream Corporate Limits	*414
		Stony Run No. 1	Confluence with Yellow Breeches Creek	*376
			Upstream side of Andersontown Road	*386
			Confluence of Stream A	*395
			60' upstream of Wharf Road	*420
		Pippins Run	Confluence with Yellow Breeches Creek	*389
			Upstream side of Lewisberry Road	*412
			2,270' upstream of Lewisberry Road	*460
			Upstream side of Legislative Route 66001	*501
			150' downstream of Cemetery Road	*544
		Stony Run No. 2	Confluence with Yellow Breeches Creek	*409
			4,200' upstream of Grantham Road	*440
			First Corporate Limits Upstream	*470
			Second Corporate Limits Upstream	*476
			Upstream Corporate Limits	*481
			Downstream Corporate Limits	*496
			Upstream side of Fileys Road	*506

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream side of Private Lane	*528
			Upstream side of Fishers Run Road	*554
			850 feet upstream of Fishers Run Road	*574
			950 feet upstream of Fishers Run Road	*604
	Maps available at The Monaghan Township Building. Send comments to: Mr. Lloyd Sowers, President of the Commission of Monaghan, R. D. 3, Dillsburg, Pennsylvania 17019.			
Pennsylvania	Township of Watson, Lycoming County.	Pine Creek	Downstream Corporate Limits	*563
			Downstream Conrail	*578
			Upstream Corporate Limits	*606
	Maps available at: The Community Building. Send comments to: Mr. Stanley J. Wall, Chairman of the Township of Watson, R. D. 4, Jersey Shore, Pennsylvania 17704.			
Tennessee	City of Bristol, Sullivan County	Beaver Creek	Just upstream of Vance Drive	*1,543
			Just upstream of Cox Street	*1,645
			Just upstream of Anderson Street	*1,675
		Little Creek (Backwater from Beaver Creek).	Just upstream of Broad Street	*1,675
		Cedar Creek	Just upstream of Glenwood Road	*1,507
			Just downstream of Weaver Pike	*1,534
			Just upstream of Weaver Pike	*1,542
			Just upstream of Virginia Avenue	*1,659
		Sinking Creek	Approximately 80 feet upstream of Old Jonesboro Road	*1,707
			Just upstream of King College Road	*1,757
			Just downstream of Middlebrook Dam and Road	*1,759
			Just upstream of Middlebrook Dam and Road	*1,770
	Maps available at: City Hall, P.O. Box 417, Bristol, Tennessee. Send comments to: Mr. Steve Schertel, Asst. Manager, City Hall, P.O. Box 417, Bristol, Tennessee.			
Texas	City of Balch Springs, Dallas Texas.	Hickory Creek	At Arrowdell Road	*441
			At Seagoville Road	452
			Just upstream of Eleanor Lane	*459
			Approximately 100 feet downstream of Stein Road	*482
		Stream 4 C6	At Verdant Road	*444
			Just upstream of Seagoville Road	*462
		South Mesquite Creek	Approximately 150 feet upstream of Beltline Road	*427
		Stream 2 B2	Just upstream of Burton Road	*432
	Maps available at: City Administrator, 3117 Hickory Road, Balch Springs, Texas 75159. Send comments to: Mr. John A. Koerner, City Administrator, 3117 Hickory Road, Balch Springs, Texas 75159			
Texas	City of Cibolo, Guadalupe County.	Town Creek	Just upstream of Farm to Market Road 78	*691
			Approximately 100 feet upstream of Farm to Market Road 1103	*710
			Just upstream of County Road 377	*791
		Town Creek Tributary No. 1	Just downstream of Corporate Limits	*711
		Dietz Creek	Just downstream of Farm to Market Road 78	*687
		Cibolo Creek	Just upstream of Schaeffer Road	*675
	Maps available at: City Hall, Main Street—(F.M. 78) Cibolo, Texas 78108. Send comments to: Mayor John A. Sippel or Ms. Barbara Glenewinkle, City Secretary, City Hall, P.O. Box 156, Cibolo, Texas 78108.			
Texas	City of Kirby, Bexar County	Rosillo Creek	Approximately 200 feet upstream of Binz-Engleman Road	*671
			Approximately 100 feet upstream of State Highway 78	*691
		West Tributary	Just upstream of Ackerman Road	*676
		Rosillo Creek	Just upstream of Kirby Drive	*683
	Maps available at: City Hall, 112 Bauman Street, Kirby, Texas 29219. Send comments to Mayor Milton J. Hoenoke or George Setterman, City Manager, Kirby City Hall, 112 Bauman Street, San Antonio, Texas 78219.			
Vermont	Town of Charlotte, Chittenden County.	Lake Champlain	Entire Coastline	*102
	Maps available at: The Town Clerk's Office. Send comments to: Mr. George Roscoe, Chairman of the Board of Selectmen, Town Hall, Charlotte, Vermont 05445.			
Virginia	Appalachia, Town, Wise County	Powell River	Downstream Corporate Limits	*1,610
			Louisville and Nashville Railroad	*1,621
			Inman Street (Upstream Side)	*1,632
			Killbourn Avenue (Upstream Side)	*1,643
			Upstream Corporate Limits	*1,656
		Callahan Creek	Confluence w/Powell River	*1,642
			Depot Street (Upstream Side)	*1,650
			3,537 feet upstream of State Route 78 (Callahan Avenue)	*1,660
			Upstream Corporate Limits	*1,674
		Looney Creek	211 feet downstream of Corporate Limits	*1,645
			Downstream Corporate Limits	*1,649
			State Route 160 (Upstream Side)	*1,677
			1,584 feet upstream of State Route 160 (at County Road)	*1,695
			1,214 feet upstream of County Road	*1,722
			Upstream Corporate Limits	*1,774
			39.6 feet upstream of Corporate Limits	*1,775
		Pigeon Creek	Confluence w/Powell River	*1,615
			52.8 feet upstream of Southern Railway (at County Road)	*1,616

Proposed Base (100-year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available at: The Municipal Building, Appalachia, Virginia.				
Send comments to: Mr. Eugene E. Brooks, Appalachia Town Manager, Box 112, Appalachia, Virginia 24216.				
		Beaver Creek	Just upstream of Moore Street	*1,676
			Just upstream of Elm Street	*1,698
			Just upstream of Lee Highway	*1,805
		Little Creek	Just upstream of Euclid Avenue	*1,683
			Just upstream of Island Road	*1,728
		Susong Branch	Just upstream of US Highway 421, (Euclid Avenue)	*1,683
			Just upstream of Randolph Avenue	*1,693
		Mumpower Creek	Just upstream of Madison Street	*1,705
			Just upstream of Meadow Drive	*1,722
			Just downstream of Chesterhills Estate	*1,763
Maps available at: City Hall, Bristol, Virginia 24201.				
Send comments to: Mr. Hugh G. Cooper, City Manager, City Hall, Bristol, Virgina 24201.				
Virginia	Pound, Town, Wise County	Pound River	Downstream Corporate Limits	*1,549
			Confluence of Bold Camp Creek	*1,556
			Confluence of South Fork Pound River	*1,558
		North Fork Pound River	U.S. Route 23 Bypass	*1,558
		South Fork Pound River	Bridge Street	*1,558
		Bold Camp Creek	Confluence with Pound River	*1,556
		Bad Creek	Downstream Corporate Limits	*1,601
			Upstream Corporate Limits	*1,625
		Tributary No. 1 to Bad Creek	State Route 630	*1,607
			Private Drive approximately 300† upstream from State Route 630	*1,611
		Indian Creek	Business Route 23	*1,556
			Upstream Corporate Limits	*1,591
Maps available at: The Town Hall, P.O. Box 426, Pound, Virginia 24279.				
Send comments to: Honorable Jerry Baker, Mayor of Pound, P.O. Box 426, Pound, Virginia 24279.				
West Virginia	Anmoore, Town, Harrison County.	Ann Moore Run	Downstream Corporate Limits	*1,006
			Confluence with Smithfield Run	*1,015
			Private Bridge Upstream	*1,039
			Parkway Street Upstream	*1,058
			Upstream Corporate Limits	*1,068
		Smithfield Run	Pike Street	*1,016
			Interstate 79 Overpass Upstream	*1,026
			Smithfield Avenue Upstream	*1,035
			Upstream Corporate Limits	*1,043
		Tributary A	Confluence with Smithfield Run	*1,017
			1,000 feet upstream from Ash Street	*1,022
Maps available at: The Town Hall.				
Send comments to: Honorable Dinny Lamm, Mayor of Anmoore, South Ash and Route 58, Anmoore, West Virginia 26323.				

(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 19867; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: November 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-35954 Filed 11-21-79; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 21, 87 and 90

[General Docket No. 79-188; RM-3247]

Allocating Spectrum for, and To Establish Other Rules and Policies Pertaining to, the Use of Radio in Digital Termination Systems for the Provision on Common Carrier Digital Telecommunications Services

AGENCY: Federal Communications Commission.

ACTION: Extension of time for filing comments to Notice of Proposed Rulemaking and Inquiry.

SUMMARY: At 44 FR 51257, August 31, 1979, the Commission published a Notice of Proposed Rulemaking and Inquiry relating to allocating spectrum for, and to establish other rules and policies pertaining to, the use of radio in digital termination systems for the provision of common carrier digital telecommunications services. This document extends the dates for the filing of comments and of reply comments in Docket 79–188, released on August 29, 1979 and which was issued in response to the rulemaking petition filed by the Xerox Corporation.

DATES: The filing dates for comments and reply comments are extended one month. Comments and reply comments must be filed on or before December 14, 1979 and on or before January 14, 1980, respectively.

ADDRESSES: Federl Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Spectrum Allocation Division, Office of Science & Technology, 2025 M Street, NW., Washington, D.C. 20554 (202) 632-6350—Room 7310.

Order Extending Time for Filing Comments

Adopted: November 9, 1979.

Released: November 9, 1979.

In the matter of Amendment of Parts 2, 21, 87 and 90 of the Commission's rules to Allocate Spectrum for, and To Establish Other Rules and Policies Pertaining to, the Use of Radio in Digital Termination Systems for the Provision on Common Carrier Digital Telecommunications Services, General Docket No. 79-188, RM-3247.

1. On November 5, 1979 the Xerox Corporation, by its attorneys, pursuant to § 1.46 of the Commission's rules and regulations, 47 CFR 1.46, filed a request to extend the time for filing comments to December 14, 1979 in the above-captioned matter. Comments on the Notice of Proposed Rulemaking and Inquiry (Notice) in this matter, released by the Commission on August 29, 1979, are currently due by November 14, 1979. See 44 FR 61214, October 24, 1979.

2. Xerox gives the following rationale for the requested extension. Because it filed the rulemaking petition which led to the Notice, Xerox feels that its intended extensive comments in this matter will be of particular value to the Commission in its rulemaking deliberations. Xerox consequently feels that more time is needed for it to put these extensive comments into "the form most useful to the Commission". Furthermore, Xerox contends that the public interest will be served by the compilation of the more complete and accurate record that would be made possible.

3. The Commission has expressed (paragraph 6 of the Notice) the intention to resolve all issues raised and to adopt appropriate rules and policies for Digital Termination Systems and the Common Carrier services provided over them, and to do so without further public comment—if justified by the formal responses to the Notice. Therefore, the request is consistent with the purpose of providing a fuller record to serve as a basis upon which these rules and policies will be developed. Additionally, since we perceive no hardship to any interested party, and because the resolution of this proceeding with due dispatch will not be materially affected, the request for extension of the comment period to December 14, 1979 is hereby granted.

4. Accordingly, it is ordered, pursuant to § 0.241(d) of the Commission's rules and regulations, that, the dates for filing comments and reply comments in this proceeding are extended from November 14, 1979 and December 14, 1979, respectively. The new date for filing comments is December 14, 1979; the date for filing reply comments is now January 14, 1980.

Federal Communications Commission.

Will A. McGibbon,

Associate Chief Scientist.

[FR Doc. 79-36056 Filed 11-21-79; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR—Part 43

[CC Docket No. 79-262]

Eliminating Semiannual Reports and To Provide for the Submission of Revised Data in the Annual Reports of Overseas Telecommunications Traffic Data; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order to change filing dates in Notice of Inquiry and Proposed Rulemaking.

SUMMARY: The deadline for filing Comments and Replies in CC Docket No. 79-262 is extended.

DATES: Comments to be submitted by December 6, 1979 and Replies to be submitted by December 21, 1979.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kenneth B. Stanley, Room 526, (202) 653-7413.

SUPPLEMENTARY INFORMATION:

Order

Adopted: November 13, 1979.

Released: November 14, 1979.

By the Chief, Common Carrier Bureau:

In the Matter of amendment of § 43.61 of the Rules so as to eliminate semi-annual reports and to provide for the submission of revised and corrected data in the annual reports of overseas telecommunications traffic data. [44 FR 61214].

1. In CC Docket No. 79-262, the Commission instituted a Notice of Inquiry and Proposed Rule Making to amend certain parts of § 43.61 of its Rules and Regulations. This section requires the semiannual submission of traffic data by the overseas carriers. The notice called for interested parties to file comments by November 16, 1979 and Replies by December 1, 1979.

2. United States Telephone and Telegraph Company filed a motion for extension of time until January 16, 1980 to file its comments. As justification for this motion, U.S.T.&T. states that its counsel recently returned to the office from vacation and only then learned of our Notice, and that its subsidiary, ITT World Communications, was unaware of the proceeding. U.S.T.&T. also states that some information called for in our Notice is not routinely available.

3. We do not find the justification advanced by U.S.T.&T. to be compelling. It is the responsibility of U.S.T.&T. and ITTWC to keep informed on Commission matters which affect them and to act accordingly. We cannot be responsible for counsel's vacation schedule or lack of awareness of a proceeding. While some information called for in this proceeding may not be routinely available, we think the request for a two-month extension is excessive.

4. TRT Telecommunications has also petitioned for an extension of time. Its petition, filed November 9, 1979, requests an extension to December 16, 1979. It cites the need to compile additional information to adequately address the matters in this proceeding.

5. We think the time schedule set in our Notice is adequate to respond to the issues in this proceeding. However, some extension of time may be warranted if it enables interested parties to compile additional relevant information and submit more meaningful comments.

6. Accordingly, IT IS ORDERED, pursuant to delegated authority, That the deadline for filing comments in this proceeding is extended to December 6, 1979 and, That Replies shall be filed no later than December 21, 1979.

Thomas J. Casey,

Deputy Chief, Common Carrier Bureau.

[FR Doc. 79-36082 Filed 11-21-79; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 95

[PR Docket No. 79-140]

Creation of an Additional Personal Radio Service; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This Order extends the time period for comments to the Notice of Inquiry proposing the creation of an additional Personal Radio Service. The comment period and reply period are extended to January 15, 1980, and February 15, 1980, respectively.

DATES: Comments must be filed on or before January 15, 1980 and Reply Comments must be filed on or before February 15, 1980.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: James McNally, Personal Radio Branch, Private Radio Bureau (202) 254–6884.

Order

Adopted: November 8, 1979.

Released: November 14, 1979.

In the matter of creation of an additional Personal Radio Service, PR Docket No. 79–140, 44 FR 37522, June 27, 1979.

1. On June 25, 1979, the Commission released a *Notice of Proposed Rulemaking* looking towards the creation of a new Personal Radio Service in the 900 MHz band. Comments were due by December 31, 1979.

2. The distribution of this *Notice* to the public took longer than had originally been anticipated. In order to be assured that members of the public who wish to participate have sufficient time to prepare and file their comments, we have concluded that an extension of time is in order.

3. Accordingly, pursuant to the authority contained in § 0.331 of the Commission's rules, the Commission orders that the comment period and the reply period in PR Docket No. 79–140 are extended to January 15, 1980, and February 15, 1980, respectively.

Federal Communications Commission.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 79–36027 Filed 11–21–79; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 385

[BMCS Docket No. 88; Notice No. 79–7]

Assignment of Motor Carrier Safety Ratings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal would amend the Federal Motor Carrier Safety Regulations (FMCSR) and codify established procedure for determining a motor carrier's safety rating. Uniform procedures will apprise motor carriers of the factors that may affect their safety rating while also ensuring that equal standards are applied to all motor carriers.

DATE: Comments must be received on or before January 6, 1980.

ADDRESS: Anyone wishing to submit written comments may do so. Comments (original and two copies) should be sent to BMCS Docket No. MC–88, Federal Highway Administration, Room 3404, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Jeglum, Chief, Compliance Analysis Branch, Operations Division, Bureau of Motor Carrier Safety, 202–426–1724; Attorney: Mr. Gerald M. Tierney, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 1653(e) of the Department of Transportation Act of 1966 (49 U.S.C. § 1651) declares it to be the duty of the Secretary of Transportation to determine and report to the Interstate Commerce Commission (ICC) a safety rating for each carrier applicant seeking operating authority from the ICC. The Federal Highway Administration is responsible for providing this information. A carrier's safety rating is one factor the ICC considers in determining whether temporary operating authority should be granted. The possible ratings assigned are: satisfactory unsatisfactory, safety, conditional, and insufficient information.

This document proposes the addition of Part 385 to Title 49 Code of Federal Regulations. It would establish the criteria to be followed when the FHWA assigns a safety rating to a carrier applying for temporary operating authority. There are presently no published regulations governing this process. The new regulation would codify, with minor changes, the procedure that is being followed by the FHWA when determining a safety rating on temporary authority applications. This regulation is intended to ensure that a uniform procedure is followed upon request for a safety rating. It also makes public the criteria considered when assigning a safety rating.

Since the proposed regulation largely formalizes current procedure, no additional compliance or cost burden is anticipated to stem from its implementation. However, at least two benefits will accrue from this codification. First, publishing the criteria considered will inform carriers of what conduct might lead to their being assigned an unsatisfactory rating, thus allowing them to conform to acceptable standards. Second, publishing the criteria will further ensure uniform treatment for all carrier applicants.

The regulation does not attempt to establish rigid categories of conduct which will result in a particular safety rating. The variety of factors, coupled with the attending circumstances that influence a safety rating, do not permit rigid classifications. The regulation is drafted to ensure that all carriers receive equal treatment, while also allowing consideration of the many factors needed to reach an equitable result. The Administration is particularly interested in comments regarding the criteria to be considered when determining a carrier applicant's safety rating.

In consideration of the foregoing, and under the authority of 49 U.S.C. §§ 304 and 1655 and the delegation of authority by the Secretary of Transportation in 49 CFR 1.48(b) and 49 CFR 301.60, it is proposed to amend Chapter III Subchapter B of Title 49, Code of Federal Regulations by adding a new Part 385 as follows:

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

PART 385—SAFETY RATINGS

385.1 Determination of motor carrier safety rating.

385.3 Criteria to be considered.

Authority: 49 U.S.C. 304 and 1655; 49 CFR 1.48(b) and 301.60.

§ 385.1 Determination of motor carrier safety rating.

(a) This section prescribes procedures that apply to the FHWA when assigning a safety rating to a motor carrier seeking temporary operating authority before the Interstate Commerce Commission.

(b) A motor carrier will be assigned one of the following ratings:

(1) Satisfactory—The carrier applicant is in substantial compliance with all areas of the Administration's safety regulations.

(2) Unsatisfactory—The carrier applicant is not in substantial compliance with one or more areas of the Administration's safety regulations.

(3) Safety Conditional—The carrier applicant has experienced recent difficulty in complying with one or more areas of the Adminsitration's safety regulations. Failure to improve will result in an unsatisfactory rating.

(4) Insufficient Information—The FHWA's file contains insufficient recent information upon which to base a rating.

(c) Ratings will be transmitted to the ICC by written report or by telephone communication followed by a written report. *Exception:* A written report need not be transmitted if the rating is Satisfactory or Insufficient Information.

§ 385.3 Criteria to be considered.

In determining a carrier's safety rating, the following factors are considered:

(a) Violations of the Federal Motor Carrier Safety and Hazardous Materials Regulations, and Safety Orders that were discovered during surveys performed within 5 years of the rating.

(b) Violations of the Federal Motor Carrier Safety and Hazardous Materials Regulations, and Safety Orders that were discovered during driver equipment compliance checks performed within 5 years of the rating.

(c) Violations of State Motor Carrier Safety and Hazardous Materials Regulations, and Safety Orders that were discovered during investigations performed within 5 years of the rating.

(d) The nature, extent, circumstances, and gravity of the violations discovered.

(e) The carrier's accident record.

(f) The carrier's improvement or lack of improvement in complying with the Federal in State motor carrier safety and hazardous materials regulations within the past 5 years.

(g) The recommendation of the Federal Highway Administration field staff based on their consideration of factors (a) through (f).

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044. The impact of this rule is so minimal that it does not warrant a full regulatory evaluation.

Issued on: November 7, 1979.

Robert A. Kaye,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 79-35879 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

Taking of Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The General Permit and regulations governing the taking of marine mammals incidental to commercial fishing operations are required by the Marine Mammal Protection Act of 1972, as amended (MMPA). The existing General Permit issued to the American Tunaboat Association for this purpose and the regulations underlying the General Permit (50 CFR 216.24) are valid until 2400 hours, December 31, 1980. However, because of new information contained in the Report of the Status of Porpoise Stocks Workshop, held August 27–31, 1979, in La Jolla, California, the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, intends to reconsider the appropriateness of the existing regulations and to consider the regulatory regime that may be appropriate beyond 1980. This Notice announces the Agency's tentative schedule for proposing amendments to the existing regulations and General Permit, proposing regulations governing incidental taking of porpoise in the eastern tropical Pacific beyond 1980, and holding formal hearings before an Administrative Law Judge to consider these matters.

DATES: See Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Dr. William Aron, Director, Office of Marine Mammals and Endangered Species; National Marine Fisheries Service, Washington, D.C. 20235, Telephone: 202–634–7461.

SUPPLEMENTARY INFORMATION: On November 7, 1979, the National Marine Fisheries Service announced that the Report of the Status of Porpoise Stocks Workshop, held August 27–31, 1979, in La Jolla, California, was available (44 FR 64480, November 7, 1979).

The Workshop was held as part of the Agency's process to prepare a draft environmental impact statement on regulations governing the taking of marine mammals incidental to commercial fishing operations in the eastern tropical Pacific for 1981 and beyond (see Announcement of Public Scoping Meeting, 44 FR 46903, August 9, 1979).

The 1979 Workshop Report contains new information regarding the status of eastern tropical Pacific porpoises that must be reviewed to determine whether and if the existing General Permit and regulations regarding the incidental taking of such porpoises are consistent with and necessary to carry out the purposes of the MMPA. If not, the Agency will modify the existing regulations in such manner to fulfill the purposes of the MMPA.

50 CFR 216.24(d)(2)(i)(D) recognizes that the receipt of new information may require a mid-course adjustment to the regulations underlying the existing General Permit and allows the public to request a formal or informal hearing on this matter. The consequences of the review of the Report and other information to be submitted may be considerable. Therefore, the Agency has determined that a formal hearing before an Administrative Law Judge is the best means of reviewing the Report and other relevant information, as well as affording full due process rights for all interested parties.

The Agency also believes that the formal proceeding must consider the General Permit and incidental taking regulations that may be appropriate when the existing General Permit and regulations become invalid. The Agency believes that any adjustment to the existing General Permit and regulations and the General Permit and regulations that may be appropriate beyond 1980 must be based on the best available and most complete scientific and other information.

The Agency hereby announces the following tentative schedule to consider these matters:

January 18, 1980—FR publication of (1) Notice of Formal Hearing; (2) Procedural rules for the formal hearing; (3) proposed amendments to existing General Permit and 50 CFR 216.24 as are necessary to carry out the purposes of the MMPA; (4) proposed regulations to govern incidental taking beyond 1980; and (5) Notice of Availability of draft environmental impact statement.

February 18, 1980—Start of Formal Hearings.

March 21, 1980—Close of Formal Hearings.

April 25, 1980—Close of Briefing Schedule.

June 2, 1980—ALJ's Recommended Decision.

June 11, 1980—Exceptions to ALJ's Decision.

July 1, 1980—Final Decision by Administrator of NOAA.

The ex parte communications prohibitions at 5 U.S.C. 557(d) shall begin to apply on January 18, 1980, or at such time that the Formal Hearings are actually Noticed by the Agency.

(Marine Mammal Protection Act of 1972, as amended; 86 Stat. 1027; 16 U.S.C. 1361–1407; Pub. L. 92–522)

Dated: November 20, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-36213 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 662

Pacific Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of Public Hearings.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), and the National Marine Fisheries Service, NOAA/DOC, will hold joint public hearings for the purpose of input on the Draft Fishery Management Plan and Environmental Impact Statement (DEIS/DFMP) for the California, Oregon, and Washington Groundfish Fishery, and the Draft Environmental Impact Statement and Fishery Management Plan for the Jack Mackerel Fishery.

DATES: Written comments on both DEIS/DFMP's should be submitted on or before January 14, 1980.

Individuals or organizations wishing to comment on the DEIS/DFMP's may do so at public hearings to be held as follows:

December 14, 1979; Monterey, California.
December 14, 1979; Astoria, Oregon.
December 15, 1979; North Bend, Oregon.
December 15, 1979; Long Beach, California.
December 17, 1979; Arcata, California.
January 5, 1980; Seattle, Washington.

Copies of the DEIS/DFMP's will be mailed to all individuals and organizations who have requested to be placed on the Council's Groundfish Plan and Jack Mackerel Plan mailing lists. In order to facilitate review of the plans by others, the Council will distribute copies to various local repositories in Washington, Oregon, and California. These include marine extension offices, local libraries, port offices, and State and Federal fishery agency offices. A limited number of copies of the DEIS/ DFMP's will be available at the Council office for those currently not on the mailing list as well as at the public hearings listed above.

ADDRESSES: Written comments should be sent to the following individuals—

(a) Groundfish DEIS/DFMP

Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201.

(or)

Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Ave., North, Seattle, Washington 98109.

(b) Jack Mackerel DEIS/DFMP

Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201.

(or)

Gerald V. Howard, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

HEARING LOCATIONS:

December 14, 1979—Monterey, 7:30 p.m., Astoria Middle School, 1100 Klaskanine Avenue, Astoria, Oregon.

December 14, 1979—Monterey, 7:30 p.m., Ferrante Room, One Portola Plaza, Monterey, California.

December 15, 1979—North Bend, 2:00 p.m., Timber Country, 3491 Broadway, North Bend, Oregon.

December 15, 1979—Long Beach, 2:00 p.m., California State University, 1212 Bellflower Boulevard, Long Beach, California.

December 17, 1979—Arcata, 7:30 p.m., Ramada Inn, 4975 Valley West Boulevard, Arcata, Califorina.

January 5, 1980—Seattle, 10:00 a.m., Georgian Room, Olympic Hotel, Fourth and Seneca Street, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Lorry M. Nakatsu, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, Oregon 97201, Telephone: (503) 221–6352.

SUPPLEMENTARY INFORMATION: Hearings will be held concurrently on the Groundfish Plan and the Jack Mackerel Plan because the fisheries for these species are interrelated. For the past several years, the offshore foreign trawl fishery has been regulated by a preliminary fishery management plan, and the domestic fishery by State regulations.

The Council proposes that the foreign and domestic groundfish and jack mackerel fisheries in the 3–200 mile zone off Washington, Oregon, and Califorina be managed beginning in 1981 on the basis of fishery management plans implemented by Federal regulations.

Dated: November 19, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-36204 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 44, No. 227
Friday, November 23, 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

Federal Grain Inspection Service

Official Agency Designation of the Little Rock Grain Exchange Trust, North Little Rock, Ark., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Little Rock Grain Exchange Trust, North Little Rock, Arkansas, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Little Rock Grain Exchange Trust (the "Agency"), 600 Olive Street, Building B, North Little Rock, Arkansas 72119, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS), has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on February 1, 1979. The Agency is responsible for providing official grain inspection functions under the Act, replacing those official grain inspection functions previously provided by the Little Rock Grain Exchange. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

In Texas, the following counties: Bowie and Cass.

In Arkansas, the area shall be:

Bounded: on the North by the northern Arkansas State line from the western Marion County line east to the eastern Clay County line;

Bounded: on the East by the following counties: Clay, Greene, Lawrence, Jackson, Woodruff, Monroe, Arkansas, Desha, and Chicot;

Bounded: on the South by the southern Arkansas State line from the eastern Chicot County line west of the western Miller County line; and

Bounded: on the West by the following counties: Miller, Little River, Howard, Pike, Clark, Hot Spring, Garland, Perry, Conway, Pope, Searcy, and Marion.

An exception to this geographic area is the following location situated inside the Agency's area which has been and will continue to be serviced by Memphis Grain and Hay Association, Memphis, Tennessee: Lockhart-Thompson Grain Elevator in Augusta, Arkansas, in Woodruff County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 6, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27. Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note)).

Done in Washington, D.C., on November 16, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-36025 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Designation of the Minot Grain Inspection, Inc., Minot, N. Dak., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Minot Grain Inspection, Inc., Minot, North Dakota, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

SUPPLEMENTARY INFORMATION: Minot Grain Inspection, Inc. (the "Agency"), 601 3rd Avenue, S.W., Box B, Minot, North Dakota 58701, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on February 1, 1979. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the North Dakota State line east to State Route 14;

Bounded: on the East by State Route 14 south to State Route 5; State Route 5 east to State Route 60; State Route 60 southeast to State Route 3; State Route 3 south to State Route 200;

Bounded: on the South by State Route 200 west to State Route 41; State Route 41 south to U.S. Route 83; U.S. Route 83 northwest to State Route 200; State Route 200 west to U.S. Route 85; U.S. Route 85 south to Interstate 94; Interstate 94 west to the North Dakota State line; and

Bounded: on the West by the North Dakota State line.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Farmers Elevator Company, Bottineau, North Dakota, in Bottineau County; Farmers Feed & Grain and Farmers Union, Harvey, North Dakota, in Wells County; Farmers Union, Rugby, North Dakota, in Pierce County; Farmers Elevator & Mercantile Co., and Coast Trading Company, Underwood, North Dakota, in McLean County; and Merle A. Larsen Elevator, Inc., Washburn, North Dakota in McLean County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 6, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94–582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C., on November 16, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79–38024 Filed 11–21–79; 8:45 am]

BILLING CODE 3410–02–M

Official Agency Designation of the Tri-State Grain Inspection Service, Inc., Cincinnati, Ohio, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Tri-State Grain Inspection Service, Inc., Cincinnati, Ohio, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

SUPPLEMENTARY INFORMATION: On December 18, 1978, a notice was published in the **Federal Register** (43 FR 58847) announcing the Cincinnati Board of Trade, Inc., Cincinnati, Ohio, had requested that its designation be cancelled and transferred to the Tri-State Grain Inspection Service, Inc. (the "Agency"), 1137 West Sixth Street, Cincinnati, Ohio 45203, owned and operated by Patrick G. Corrigan, Jr.

Interested persons were given until January 17, 1979, to submit written views and comments with respect to the requested transfer of designation and/or to apply for designation to operate as an official agency at Cincinnati, Ohio. No comments were received regarding the December 18, 1978, notice. No additional applications were received, other than the application from Mr. Corrigan, Jr.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on June 15, 1979. The Agency is responsible for providing official grain inspection functions under the Act, replacing those official grain inspection functions previously provided by the Cincinnati Board of Trade, Inc. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

In Ohio, the area shall be:

Bounded: on the North by the northern Preble County line east; the western and northern Miami County lines east to State Route 296; State Route 296 east to State Route 560; State Route 560 south to the northern Clark County line; the Clark County line east to U.S. Route 68;

Bounded: on the East by U.S. Route 68 south to U.S. Route 22; U.S. Route 22 east to State Route 73; State Route 73 southeast to the eastern Adams County line; the eastern Adams County line;

Bounded: on the South by the southern Adams, Brown, Clermont, and Hamilton County lines; and

Bounded: on the West by the western Hamilton, Butler, and Preble County lines.

In Kentucky, the area shall include the following counties: Bath, Boone, Bourbon, Bracken, Campbell, Clark, Fleming, Gallatin, Grant, Harrison, Kenton, Lewis (west of State Route 59), Mason, Montgomery, Nicholas, Owen, Pendleton, and Robertson.

In Indiana, the area shall include the following counties: Dearborn, Decatur, Franklin, Ohio, Ripley, Rush (south of State Route 244), and Switzerland.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performng official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 6, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94–582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C., on November 16, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-36023 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Designation of the Gibson City Grain Inspection Department, Gibson City, Ill., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Gibson City Grain Inspection Department, Gibson City, Illinois, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

SUPPLEMENTARY INFORMATION: Gibson City Grain Inspection Department (the "Agency"), Routes 47 and 9, P.O. Box 20, Gibson City, Illinois 60936, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official agency inspection services not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on February 1, 1979. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Livingston County line from the ICG Railroad line;

Bounded: on the East by the Livingston County line; the Ford County line; the southern Ford County line west to Interstate 57; Interstate 57 south to State Route 136;

Bounded: on the South by State Route 136 west to a point 10 miles west of the eastern McLean County line; and

Bounded: on the West by a straight line running north and south from this point north through Arrowsmith to Pontiac; the ICG Railroad line from

Pontiac northeast to the northern Livingston County line.

In addition, the following location which is outside of the foregoing contiguous geographic area and is to be serviced by the Agency shall be considered as part of the Agency's geographic area: Farm Service, Arrowsmith, Illinois, in McLean County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 6, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94–582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C., on November 16, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-36022 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-02-M

Official Agency Designation of the Grain Inspection, Inc., Jamestown, North Dakota, and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Grain Inspection, Inc., Jamestown, North Dakota, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 6, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

SUPPLEMENTARY INFORMATION: Grain Inspection, Inc. (the "Agency"), 217 4th Avenue, N.W., Box 1652, Jamestown, North Dakota 58401, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. *et seq.)* (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on March 1, 1979. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note: Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by Interstate 94 to U.S. Route 85; U.S. Route 85 north to State Route 200; State Route 200 east to U.S. Route 83; U.S. Route 83 southeast to State Route 41; State Route 41 north to State Route 200; State Route 200 east to State Route 3; State Route 3 North to U.S. Route 52; U.S. Route 52 southeast to State Route 15; State Route 15 east to U.S. Route 281; U.S. Route 281 south to Foster county; the northern Foster County line; the northern Griggs County line east to State Route 32;

Bounded: on the East by State Route 32 south to State Route 45; State Route 45 south to State Route 200; State Route 200 west to State Route 1; State Route 1 south to the Soo Railroad line; the Soo Railroad line southeast to Interstate 94; Interstate 94 west to State Route 1; State Route 1 south to Dickey County line;

Bounded: on the South by the southern Dickey County line west to U.S. Route 281; U.S. Route 281 north to the Lamoure County line; the southern Lamoure County line; the southern Logan County line west to State Route 13; State Route 13 west to U.S. Route 83; U.S. Route 83 south to the Emmons County line; the southern Emmons County line; the southern Sioux County line west to State Route 49; State Route 49 north to State Route 21; State Route 21 west to the Chicago-Milwaukee-St. Paul and Pacific Railroad line; the Chicago-Milwaukee-St. Paul and Pacific Railroad line northwest to State Route 22; State Route 22 south to U.S. Route 12; U.S. Route 12 west-northwest to the North Dakota State line; and

Bounded: on the West by the western North Dakota State line north to Interstate 94.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Farmers Coop Elevator, Fessenden, North Dakota, in Wells County; Farmers Union Elevator and Manfred Grain, Manfred, North Dakota, in Wells County; and Norway Spur and Oakes Grain, Oakes, North Dakota, in Dickey County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by:

Aberdeen Grain Inspection, Inc., Aberdeen, South Dakota: Farmers Elevator, Guelph, North Dakota, in Dickey County; Farmers Equity Exchange and Sun Grain, New England, North Dakota, in Hettinger County; and Regent Grain Company and Regent

Equity, Regent, North Dakota, in Hettinger County; and

Minot Grain Inspection, Inc., Minot, North Dakota: Farmers Elevator & Mercantile Co., and Coast Trading Company, Underwood, North Dakota, in McLean County; and Merle A. Larson Elevator, Inc., Washburn, North Dakota, in McLean County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 6, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94–582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C., on November 16, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79–36021 Filed 11–21–79; 8:45 am]

BILLING CODE 3410–02–M

Official Agency Designation of the Memphis Grain and Hay Association, Memphis, Tenn., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Memphis Grain and Hay Association, Memphis, Tennessee, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before January 6, 1980.

FOR FURTHER INFORMATION CONTACT: J.T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

SUPPLEMENTARY INFORMATION: Memphis Grain and Hay Association (the "Agency"), 1390 Channel Avenue, P.O. Box 13302, Memphis, Tennessee 38113, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on February 1, 1979. The Agency is responsible for providing official grain inspection functions under the Act, replacing those official grain inspection functions previously provided by the Memphis Grain and Hay Association. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides than not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

In Arkansas, the area shall include the following counties: Craighead, Crittenden, Cross County, Lee County, Mississippi, Philips, Poinsett, and St. Francis.

In Tennessee, the area shall include the following counties: Carroll, Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Henderson, Lauderdale, Madison, McNairy, Shelby, and Tipton.

In addition, the following location which is outside of the foregoing contiguous geographic area and is to be serviced by the Agency shall be considered as part of the Agency's geographic area: Lockhart-Thompson Grain Elevator, Augusta, Arkansas, in Woodruff County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States

Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 8, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94–582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note)).

Done in Washington, D.C., on November 16, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-36020 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Quality Service

Meat and Poultry Inspection Program Covering Imported Products; Solicitation of Comments

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice and solicitation of comments.

SUMMARY: This notice announces the completion and availability of a task force report on the meat and poultry inspection system covering imported products. The report was prepared at the direction of the Administrator of the Food Safety and Quality Service (FSQS) and constitutes a review of the program by which the agency assures that imported meat and poultry products are not adulterated or misbranded. The Department is soliciting the views of consumers, the industry, and other interested parties on this report, as well as recommendations for improvements in the inspection program.

DATE: All comments must be received on or before January 23, 1980.

ADDRESS: Written comments to Executive Secretariat, Attn: Annie Johnson, Room 3807, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments to Dr. K. O. McDougall, (202) 447–3473. See also comments under Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Dr. K. O. McDougall, Assistant to the Deputy Administrator, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–3473.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit comments concerning this notice. Written comments must be sent in duplicate to the office of the Executive Secretariat. Comments should bear a reference to the date and page number of this issue of the **Federal Register.** Any person desiring opportunity for oral presentation of views concerning this notice must make such request to Dr. K. O. McDougall so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

Background

The Administrator, Food Safety and Quality Service (FSQS), has initiated a number of systematic reviews in certain specified program areas. As part of this process, the Administrator determined that there was a definite need for review of the program by which FSQS assures that imported meat and poultry products are not adulterated or misbranded and are in compliance with the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Federal Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*). Therefore, the Administrator appointed a Task Force to undertake this study, recognizing the need of FSQS to be responsive to consumer concerns, to assure that the products are not adulterated or misbranded, and to allocate financial and other resources in a manner which best serves program purposes.

Presently, FSQS establishes the eligibility of establishments in foreign countries to export meat and poultry and products thereof to the U.S., conducts periodic onsite reviews of certified foreign establishments, and inspects meat and poultry and products thereof at the point of entry. The Task Force has recommended a basic change of emphasis in this area. The present FSQS program relies heavily upon data obtained from actual inspection, including both port-of-entry inspection of meat and poultry and products thereof and onsite reviews of foreign establishments. The report recommends that greater emphasis be placed upon the overall monitoring of a foreign country's ability to develop and effectively enforce its own meat and poultry inspection programs. The Task Force suggests that better use of resources could be achieved by recognizing the responsibility of foreign governments and producers to assure the quality of meat and poultry offered for import and the possibility of placing the burden of proof of compliance on those parties.

Details of the Task Force study and resultant recommendations have been published in a report titled "Task Force Report on Imported Meat and Poultry Inspection Program." Section I of the report outlines the legal basis and responsibilities of the program, as well as describing the amounts and types of product the program regulates. Section II provides a detailed discussion of current import inspection activities. Section III defines and discusses the major risks most frequently associated with meat and poultry products. These risks include (1) biological residues, (2) diseases, (3) misuses of food additives, (4) gross contamination, (5) microscopic contamination, and (6) economic fraud. Section IV covers several specific areas in which improvements might be necessary and Section V presents specific suggestions for dealing with these problem areas.

Copies of this report are available without charge from the Office of Information, Room 3606, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

The Department encourages all interested persons to review the report and submit comments within 60 days regarding its overall content, as well as comments regarding the specific recommendations contained therein. The Department will then carefully consider comments on these issues in deciding if regulatory changes should be proposed.

Done at Washington, DC, on: November 19, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 79-36147 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-DM-M

Forest Service

Forest Plan, Toiyabe National Forest Reno, Nev.; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, and 36 CFR 219.7 pertaining to National Forest System Land and Resource Planning, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for the proposed Forest Plan for the Toiyabe National Forest.

A range of alternatives will be considered and evaluated. The selected alternative will guide the management of the Forest, establish management standards and guidelines, and will determine the resource management practices.

Early in the environmental analysis, Federal, State, and local agencies, organizations, and individuals who may be interested in or affected by the decision will be invited to participate in the scoping process, which includes: (a) identification of those issues to be addressed; (b) identification of those issues to be analyzed in depth; and (c) eliminate from detailed study the issues which are not significant, or which have been covered by prior environmental review.

To accomplish this, an informal public meeting will be held at the Pioneer Inn, 221 South Virginia, Reno, Nevada, from 1:30–4:00 p.m. and 7:30–9:30 p.m., November 27, 1979. Open houses will be held at the following locations:

Bridgeport Ranger's Office—1:30–4:00 p.m./7:30–9:30 p.m. (November 27, 1979)
Austin Ranger's Office—1:30–4:00 p.m./7:30–9:30 p.m. (November 27, 1979)
Tonopah Ranger's Office—1:30–4:00 p.m./7:30–9:30 p.m. (November 27, 1979)
Las Vegas Ranger's Office—1:30–4:00 p.m./7:30–9:30 p.m. (November 27, 1979)

Frank Ferrarelli, Forest Supervisor, Toiyabe National Forest, is the responsible official. Questions about the proposed actions and Environmental Impact Statement should be directed to Terry Randolph, Forest Planner, in the Forest Supervisor's Office (702–784–5331).

It is anticipated the analysis will take approximately three (3) years. The draft Environmental Impact Statement is scheduled for completion by July 1982, with a three-month review period, and the final Environmental Impact Statement is scheduled for filing in April 1983.

Written comments and suggestions concerning this analysis should be sent to Frank Ferrarelli, Forest Supervisor, Toiyabe National Forest, 111 North Virginia, Reno, Nevada 89501. To be of assistance, comments should be received by December 31, 1979.

Dated: November 14, 1979.

Vern Hamre,

Regional Forester.

[FR Doc. 79-36109 Filed 11-21-79; 8:45 am]

BILLING CODE 3410-11-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I, (the Act) and paragraph 8b of Office of Management and Budget Circular No. A–63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on December 13, 1979 from 10 a.m. to 6 p.m. and on December 14, 1979 from 8:30 a.m. to 12:30 p.m. at 2201 C Street NW., Washington, D.C., in Room 7516.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 12065, dated June 28, 1978.

The meeting will be closed to the public in accordance with the determination of November 15, 1979 made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to Section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11686 dated October 7, 1972 and continued by Executive Order 11769 dated February 21, 1974.

Dated: November 16, 1979.

Charles R. Oleszycki,

Advisory Committee Management Officer.

[FR Doc. 79-36061 Filed 11-21-79; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

[Docket 37019]

Cascade Airways, Inc., Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 11, 1979, at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge Richard M. Hartsock.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of: (1) Proposed statements of issues; (2) Proposed stipulations; (3) Proposed requests for information and for evidence; (4) Statements of positions; and (5) Proposed procedural dates. The Bureau of Domestic Aviation will circulate its material on or before November 26, 1979, and the other parties on or before December 5, 1979. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitates cross-referencing.

Dated at Washington, D.C., November 16, 1979.

Richard M. Hartsock,

Administrative Law Judge.

[FR Doc. 79-36071 Filed 11-21-79; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Michigan 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 Michigan Advisory Committee (SAC) will convene at 10:00 a.m. and will end at 4:00 p.m., on December 15, 1979, at City Hall, 1315 South Washington, Saginaw, Michigan.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss FY '80 project planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 19, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-36064 Filed 11-21-79; 8:45 am]

BILLING CODE 6335-01-M

North Carolina Advisory Committee; 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 North Carolina Advisory Committee (SAC) of the Commission will convene at 1:00 p.m. and will end at 4:30 p.m., on December 17, 1979, at the Hilton Hotel, Room G & H, 830 West Market Street, Greensboro, North Carolina 27402.

Persons wishing to attend this open meeting should contact the Committee

Chairperson or the Southern Regional Office of the Commission, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303.

The purpose of this meeting is program planning for fiscal year 1980; and review of the Greensboro shooting by the Ku Klux Klan.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commisson.

Dated at Washington , D.C., November 19, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-36085 Filed 11-21-79 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Semiconductor Technical Advisory Committee; Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Semiconductor Technical Advisory Committee will be held on Wednesday, December 12, 1979, at 9:30 a.m. in Room 6802, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductor products, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda had four parts:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Finalize Committee program for 1979–80.

Executive Session

4. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof, was published in the **Federal Register** on December 21, 1978 (43 FR 59537).

Copies of the minutes of the open portion of the meeting can be obtained by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: November 19, 1979.

Kent Knowles,

Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 79-36148 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

[Docket No. S-654]

Participation by Vessels Built With Construction-Differential Subsidy in the Carriage of Crude Oil in the Domestic Trade; Application by American Petrofina, Inc.

Notice is hereby given that American Petrofina, Incorporated (Petrofina) has applied for written permission under section 506 of the Merchant Marine Act of 1936, as amended, for the temporary employment of the U.S. flag tanker Brooklyn in the carriage of crude oil in the domestic trade on two consecutive voyages from Alaska to the U.S. Gulf by way of the southern tip of South America. The Brooklyn is of 225,280 deadweight tons and was built with construction-differential subsidy (CDS). The vessel is under long-term charter to Petrofina from East River Steamship Corporation.

Petrofina states that it has a requirement to transport approximately 1.4 million barrels of crude oil from storage facilities in Valdez, Alaska prior to the end of December 1979. Because of an excess inventory problem at the Petrofina refinery at Port Arthur, Texas, Petrofina states that its only reasonable course of action is to ship the Alaskan oil around the southern tip of South America into the Gulf of Mexico. Petrofina advises that this extended itinerary will allow its Port Arthur refinery time to work off its excess inventory, making available adequate storage space for the Alaskan crude. At present, the loading of the vessel is scheduled for December 15–20, 1979.

It is Petrofina's belief that no non-CDS vessels of suitable size to meet the foregoing transportation requirement are available. The domestic movement requested by Petrofina does not coincide with either the Valdez/U.S. west coast or Valdez/Panama Canal trades specifically set forth in Part 250 of Chapter II, Title 46, of the Code of Federal Regulations. However, the Maritime Administration believes it is appropriate to provide an opportunity for interested parties to comment on the application.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration,

Room 3099–B, Department of Commerce Building, 14th and E Streets, NW, Washington, D.C. 20230.

Any person, firm, or corporation who desires to protest such application should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230. Protests must be received on or before November 30, 1979. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Assistant Secretary for Maritime Affairs. Within five working days after the due date for the applicant's response, the Assistant Secretary will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Assistant Secretary will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidies (CDS)).

By order of the Assistant Secretary for Maritime Affairs.

Dated: November 16, 1979.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 79-35970 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to review status reports on development of fishery management plans; consider foreign fishing applications, if any; and conduct other fishery management business.

DATES: The meeting will convene on Tuesday, December 4, 1979, at 1:30 p.m., and adjourn at 5 p.m.; reconvene on Wednesday, December 5, 1979, at 8:30 a.m., and adjourn at 5 p.m., and on Friday, December 6, 1979, reconvene at 8:30 a.m., and adjourn at approximately 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place in the Ballroom of the Mobile Hilton Inn, 3101 Airport Boulevard, Mobile, Alabama.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609. Telephone: (813) 228–2815.

Dated: November 19, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-36196 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Herring Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), has established a Herring Subpanel which will meet to review historical data on the herring fishery.

DATES: The meeting will convene on Tuesday, December 11, 1979, at 1 p.m., and adjourned at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Northwest and Alaska Fishery Center, 2725 Montlake Boulevard East, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201 Telephone: (503) 221–6352.

Dated: November 19, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-36195 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council's Pink Shrimp Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), has established a Pink Shrimp Subpanel which will meet to discuss the second draft of the Pink Shrimp Fishery Management Plan.

DATES: The meeting will convene on Wednesday, December 12, 1979, at 9 a.m., and adjourn at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Sheraton Renton Inn, 800 Rainier Avenue, South, Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526, S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Dated: November 19, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-36197 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Import Levels for Certain Wool Apparel Products From Malaysia

November 19, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the levels for men's and women's wool sweaters in Categories 445 and 446, exported from Malaysia during the agreement year which began on January 1, 1979. (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)).

SUMMARY: By an exchange of letters dated October 4 and 12, 1979, the Government of the United States and Malaysia have agreed further to amend the Bilateral Cotton, Wool and Man-Made Fiber Textile agreement of May 17 and June 18, 1978, as amended to increase the designated consultation level previously established for wool textile products in Category 446 to 14,113 dozen. The United States government has also agreed to increase the minimum consultation level for wool textile products in Category 445 to 10,080 dozen. Both increases will apply to the agreement year which began on January 1, 1979.

EFFECTIVE DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Norman Duckworth, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On January 3, 1979, there was published in the Federal Register (44 FR 930), 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, wool and man-made fiber textile products, produced or manufactured in Malaysia, 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 a further amendment to the bilateral agreement, the United States Government has agreed to increase the levels of restraint for Categories 445 and 446 during the agreement year which began on January 1, 1979 and extends through December 31, 1979.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

November 19, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further 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, wool and man-made fiber textile products, produced or manufactured in Malaysia.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978; 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 November 23, 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 wool textile products in Categories 445 and 446, produced or manufactured in Malaysia, in excess of the following levels of restraint:

Category:	*Amended 12-mo level of restraint*[1]
445	10,080 doz.
446	14,113 doz.

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1978.

The actions taken with respect to the Government of Malaysia and with respect to imports of wool textile products from Malaysia have 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.**

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-36065 Filed 11-21-79; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Deletion

AGENCY: Committee for Purchase from the Blind and other Severely Handicapped.

ACTION: Delection from Procurement List.

SUMMARY: This action deletes from Procurement List 1979 a commodity produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 23, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On September 28, 1979, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (44 FR 55920) of proposed deletion from Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity is hereby deleted from Procurement List 1979:

Class 7920

Brush, Scrub (Kitchen-Vegetable), 7920-00-324-2746.

C. W. Fletcher,

Executive Director.

[FR Doc. 79-36060 Filed 11-21-79; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1979; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1979 a service to be provided by and a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 23, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: On August 24, 1979 and September 21, 1979, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (44 FR 49711 and 44 FR 54750) of proposed additions to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the service and the commodity listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following service and commodity are hereby added to Procurement List 1979:

Sic 7349

Janitorial Service, Federal Bldg, 275 Peachtree Street, U.S. Courthourse, Forsyth & Walton Sts., Atlanta, Georgia.

Class 7210

Pillow, Bed (Feather), 7210-00-753-6228.

C. W. Fletcher,

Executive Director.

[FR Doc. 79-36059 Filed 11-21-79; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1979; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1979 commodities to be produced and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 26, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to

procure the commodities and the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and the service to Procurement List 1979, November 15, 1978 (43 FR 53151):

Class 8115

Box, Shipping, Reusable with Cushioning

8115-00-787-2142, 8115-00-787-2146, 8115-00-787-2147, 8115-00-787-2148, 8115-00-101-7638, 8115-00-101-7647, 8115-01-019-4084, 8115-01-057-1243, 8115-01-057-1244, 8115-01-057-1245, 8115-01-019-4085.

Class 7110

Credenza, 7110-00-762-5513.

Sic 7349

Janitorial Service, Federal Office Building, Cass and Stephens Streets, Roseburg, Oregon 97470.

C. W. Fletcher,

Executive Director.

[FR Doc. 79-36058 Filed 11-21-79; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent to Prepare a Draft Environmental Impact Statement

In accordance with Section 805b of the proposed Military Construction Authorization Act for Fiscal year 1980, the United States Air Force is planning to prepare a Draft Environmental Impact Statement (EIS) on the proposed closure of Goodfellow Air Force Base, Texas and the consolidation of cryptologic training at Keesler AFB, Mississippi and Corry Station, Florida. The purpose for this proposed action is to improve the effectiveness and economic efficiency of Department of Defense cryptologic training.

An earlier announcement of the proposed Goodfellow AFB closure was made on April 26, 1978. Since this date, close coordination has been maintained with interested governmental agencies, concerned groups, and individuals. Local technical consultation meetings were held in San Angelo, Texas and Biloxi, Mississippi on September 6, 1978 and September 20, 1978, respectively. These meetings provided public inputs to two studies prepared by the Air Force on the proposed closure: (1) Formal environmental assessment, (2) local economic consequences study. The public has commented on these two studies and a public meeting was held on them in San Angelo, TX on September 14, 1979. Information from these earlier studies and public reviews will be used in scoping and preparing the Draft EIS.

All interested federal, state, and local agencies, as well as the general public, will be afforded the opportunity to participate in the scoping process to identify the environmental issues that should be considered in the Draft EIS. The Air Force will offer the affected areas of the San Angelo, Texas and Biloxi, Mississippi, the opportunity to host scoping meetings in early December 1979. The impact on Pensacola, Florida is very minor and does not justify such a meeting. Notice of date, time, and place of scoping meetings will be announced in the news media in the areas where the meetings will be held.

For further information concerning the Draft EIS and scoping meetings contact: Lieutenant Colonel Gerald T. Dantzler, HQ ATC/DEV, Randolph AFB, TX 78148, Telephone: (512) 652-6352.

Darwin W. Berg,

Chief, Special Projects Branch, Pentagon Administrative Support Division, 1947 Administrative Support Group.

[FR Doc. 79-35984 Filed 11-2-79; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Intent To Prepare an Environmental Impact Statement for Naval Weapons Center, China Lake, Calif., on a Management Plan for Control of Non-Native Feral (Wild Free-Roaming) Burros "Equus Asinus" on Lands Administered by the Naval Weapons Center

The Naval Weapons Center, China Lake, California, will prepare an Environmental Impact Statement on a management plan for control of non-native feral (wild free-roaming) burros (*Equus asinus*) on lands administered by the Commander, Naval Weapons Center.

The purpose of this action is the development of a long range program of management and control for feral burros on the Naval Weapons Center. Excessively high populations of feral burros on the desert lands occupied by the Center are damaging costly test and evaluation equipment, and creating safety hazards on public roads and highways as well as the Navy access roads. Additionally, the extent of environmental damage caused by large number of burros around springs and watering places in detrimental to the welfare of native vegetation and wildlife. The competition between native species and burros for habitat is a matter of serious concern in the exercise of good stewardship over the lands and the resources for which the Naval Weapons Center is responsible.

The Environmental Impact Statement will consider the following alternatives: a management and control program compatible with the welfare of native species, available water and the carrying capacity of the habitat; adoption of burros by interested private citizens; total elimination of feral burros from Naval Weapons Center land; other methods of population control; and no project.

A public scoping meeting will be held on the Environmental Impact Statement to determine the issues of concern and to identify significant issues related to the proposed action. This meeting will be held at 7:00 p.m. on December 12, 1979, in the Lecture Center at Burroughs High School in Ridgecrest, California.

The meeting is open to the public for comment on the proposed action. Comments should summarize the viewpoint of the speaker and will be limited to five (5) minutes per speaker. Detailed comments may be submitted in writing for consideration. Written comments may be sent to the address shown below. For information concerning the proposed Environmental Impact Statement contact:

Naval Weapons Center, Attention: Public Works Officer, Code 26309, China Lake, California 93555, Telephone No. (714) 939-3411, extensions 382, 383, or 384.

P. B. Walker,

Captain, JAGC, U.S. Navy Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-35978 Filed 11-21-79; 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Graner Oil Co.; Action Taken on Consent Order

October 12, 1979.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: September 25, 1979.

COMMENTS BY: December 24, 1979.

ADDRESS: Send comments to: Jack L. Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: Jack L. Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111; Phone (415) 556–7200.

SUPPLEMENTARY INFORMATION: On Septemter 25, 1979, the Office of Enforcement of the ERA executed a Consent Order with Graner Oil Company ("Graner") of Los Angeles County, California. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and Graner wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with Graner effective as of the date of its execution.

I. Consent Order

Graner, with its home office in Los Angeles County, California, is engaged in the production and sale of crude oil and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. The Office of Enforcement of the Economic Regulatory Administration (ERA) and Graner entered into a Consent Order to resolve certain actions which could be brought by ERA as a result of its audit of Graner production and sale of crude oil, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1973 through May 31, 1979.

2. DOE alleges that Graner charged prices for crude oil produced from a certain property during the period June 3, 1975 through November 30, 1977 in excess of the maximum allowable to its customers in violation of the ceiling prices prescribed by 10 CFR 212.73 and 10 CFR 212.74.

3. Graner, without admitting to any violation of the DOE regulations, agrees to refund to the DOE $77,536.22 plus interest thereon. Interest through date of execution totals $13,969.17.

4. The total refund was paid by Graner upon execution of the Consent Order.

5. Graner paid $4,000.00 upon execution of the Consent Order in settlement of potential civil penalties.

6. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

Refunded overcharges in the total amount described in I.3 in the form of a certified check made payable to the United States Department of Energy 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 overchages requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transaction 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 of 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 now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the 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 Jack Wood, District Manager of Enforcement, Western District Office, Department of Energy, 111 Pine Street, San Francisco, CA 94111. You may obtain a free copy of this Consent Order by writing to the same address or by calling (415) 556–7200.

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 Graner Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on December 24, 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 15th day of November, 1979.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-36035 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-096]

ASARCO, Inc.; Notice of Certification of Eligible Use of Natural Gas To Displace Fuel Oil

ASARCO, Inc., (ASARCO) filed an application for certification of an eligible use of natural gas to displace fuel oil at its smelters in Hayden, Arizona and El Paso, Texas, with the Administrator of the Economic Regulatory Administration (ERA), pursuant to 10 CFR Part 595 on September 26, 1979. Notice of that application was published in the **Federal Register** (44 FR 58595, October 10, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed ASARCO's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that ASARCO's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., on November 14, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix I.—Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the ASARCO, Inc.

[ERA Docket No. 79–CERT–096]

Application for Certification

Pursuant to 10 CFR Part 595, ASARCO, Inc., (ASARCO) filed an application for certification of an eligible use of 735,000 Mcf of natural gas at its smelter in Hayden, Arizona and 630,000 Mcf of natural gas at its smelter in El Paso, Texas, with the Administrator of the Economic Regulatory Administration (ERA) on September 26, 1979. The application states that the eligible seller of the gas is Esperanza Transmission Company (Esperanza) and that the gas will be transported by the El Paso Natural Gas Company. The application and supplemental information indicate, among other things, that the use of natural gas will displace approximately 5,578,650 gallons of No. 2 diesel fuel oil (0.4 percent sulfur) at the Hayden smelter and 4,781,700 gallons of No. 2 diesel fuel oil at the El Paso smelter and that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of approximately 735,000 Mcf of natural gas at the Hayden smelter and 630,000 Mcf of natural gas at the El Paso smelter purchased from Esperanza is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 10 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volumes of natural gas at the same facilities purchased from the same eligible seller.

Issued in Washington, D.C., on November 14, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

November 14, 1979.

Re: ERA Certification of Eligible Use ERA Docket No. 79–CERT–096 ASARCO, Inc.

Mr. Kenneth F. Plumb,

Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the **Federal Register** and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 254–8202. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79–CERT–096.

Sincerely,

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Enclosure.

[FR Doc. 79–36152 Filed 11–21–79; 8:45 am]

BILLING CODE 6450–01–M

Canadian Crude Oil Allocation Program Supplemental Allocation Notice for the October 1 Through December 31, 1979, Allocation Period

Correction

The following corrections are made in the Appendix to the Allocation Notice reflecting the export levels of Canadian light crude oil and Canadian heavy crude oil for the month of November 1979, (44 FR 62931, November 1, 1979).

The Murphy: Superior, Wisconsin, refinery priority designation listed as II should instead be listed as (Priority) I.

In the Nominations—Heavy column, the Total Priority II figure, incorrectly listed as 68,000, should instead be 73,000. The Total I and II figure, incorrectly listed as 202,000, should instead be 207,000.

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before December 24, 1979.

Issued in Washington, D.C. on November 19, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79–36154 Filed 11–21–79; 8:45 am]

BILLING CODE 6450–01–M

Canadian Crude Oil Allocation Program Supplemental Allocation Notice for the October 1 Through December 31, 1979, Allocation Period

In accordance with § 214.32(c) of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a supplemental allocation notice to reflect the export levels of Canadian light crude oil and Canadian heavy crude oil for the month of December 1979.

The Canadian National Energy Board (NEB) recently announced that, beginning in October 1979, exports of crude oil from Canada would be authorized on a monthly basis, instead of a quarterly basis. Consequently, the volumes listed in the Allocation Notice issued on September 21, 1979 (44 FR 55927, September 28, 1979), and in the Supplemental Notice issued on October 17, 1979 (44 FR 61085, October 23, 1979), represented only volumes to be exported in October. Volumes listed in the Supplemental Notice issued on October 23, 1979 (44 FR 62930, November 1, 1979), represented only volumes to be exported in November. This Supplemental Notice lists only Canadian crude oil volumes which will be exported in the month of December.

The issuance of Canadian crude oil rights for December 1979 to refiners and other firms is set forth in the Appendix to this notice. As to this allocation period, the Appendix lists: (1) the name of each refiner and other firm to which rights have been issued; (2) the base period volume [1] of Canadian crude oil for each refiner's first or second priority refinery; (3) the base period volume of Canadian light and heavy crude oil, respectively, for each refiner's first or second priority refinery; (4) the nominations to ERA for Canadian light and heavy crude oil, respectively, of each refiner or other firm; (5) the number of rights for Canadian light and heavy crude oil, respectively, expressed in barrels per day, issued to each such refiner or other firm; and (6) the specific first or second priority refineries for which rights are applicable.

The nomination of Murphy Oil Corporation for heavy crude oil remains at the level to which it was reduced for November. The nomination of Marathon Oil Company for heavy crude oil, which

[1] Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974, through October 31, 1975) on a barrels per day basis.

was reduced only for the month of November, has been restored to the level originally submitted for the October–December period.

The NEB has formally advised ERA that the total volume of Canadian light crude oil authorized for export to the United States, and therefore subject to allocation under Part 214, for the month of December 1979 will be 50 barrels/day (B/D), all of which is operationally constrained through the Union Oil pipeline from the Reagan field in Canada to the Thunderbird refinery (second priority) at Cut Bank, Montana. The total volume of Canadian heavy crude oil authorized for export and subject to allocation under Part 214 will be 123,970 B/D for the month of December.

Pursuant to 10 CFR 214.35, ERA is continuing to give effect to the operational constraint regarding the Thunderbird refinery in the revised issuance of Canadian crude oil rights for the month of December set forth in the Appendix. The Canadian light and heavy crude oil rights were computed in accordance with the formulas set forth in the Allocation Notice issued on September 21, 1979, (44 FR 55927, September 28, 1979).

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before December 24, 1979.

Issued in Washington, D.C. on November 19, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix.—*Canadian Allocation Program Rights—December 1979*

[Barrels per day]

Refiner/refinery	Priority	Base period volumes			Nominations		Allocation	
		Total Canadian runs	Canadian light crude oil	Canadian heavy crude oil	Light	Heavy	Light	Heavy
Amoco:								
Whiting, Ind	II	26,751	25,560	1,191	0	0	0	0
Casper, Wyo	II	2,991	2,991	0	0	0	0	0
Mandan, N.D	II	8,995	8,995	0	0	0	0	0
Sugar Creek, Mo	II	317	317	0	0	0	0	0
Arco: Cherry Point, Wash	II	34,225	34,225	0	0	0	0	0
Ashland:								
Buffalo, N.Y	II	36,752	32,033	4,719	0	0	0	0
Findlay, Ohio	II	2,198	33	2,165	0	0	0	0
St. Paul Park, Minn	I	[3]14,707	[3]13,127	[3]1,580	40,000	31,000	0	[3]31,000
Clark: Blue Island Ill	II	18,764	18,764	0	0	0	0	0
Consumers Power:								
Essexville, Mich	I	13,872	13,872	0	0	0	0	0
Marysville, Mich	I	27,306	27,306	0	17,500	0	0	0
Conoco:								
Billings, Mont	I	25,994	25,994	0	25,994	0	0	0
Denver, Colo	II	4,639	4,639	0	4,638	0	0	0
Ponca City, OK	II	1,188	1,188	0	1,188	0	0	0
Wrenshall, Minn	I	20,651	20,651	0	20,651	0	0	0
CRA:								
Coffeyville, Kan	II	318	318	0	0	0	0	0
Phillipsburg, Kan	II	173	173	0	0	0	0	0
Scottsbluff, Neb	II	401	401	0	0	0	0	0
Crystal: Carson City, Mich	II	1,104	1,104	0	0	0	0	0
Dow Chemical, U.S.A.: Bay City, Mich	II	2,767	2,767	0	0	0	0	0
Energy Cooperative: East Chicago, Ind	II	10,804	10,267	537	0	0	0	0
Exxon: Billings, Mont	I	15,908	15,908	0	16,000	0	0	0
Farmers Union: Laurel, Mont	I	13,439	13,439	0	13,500	0	0	0
Gladieux: Fort Wayne, Ind	II	774	774	0	0	0	0	0
Gulf: Toledo, Ohio	II	13,253	13,253	0	0	0	0	0
Husky:								
Cheyenne, Wyo	II	4,865	4,865	0	0	0	0	0
Cody, Wyo	II	806	806	0	0	0	0	0
Koch: Pine Bend, Minn	I	[3]44,383	[3]3,396	[3]40,987	0	95,000	0	[3]74,383
Lake Superior D.P.: Ashland, Wisc	I	125	125	0	0	0	0	0
Lakeside: Kalamazoo, Mich	II	1,240	1,240	0	0	0	0	0
Laketon: Laketon, Ind	II	141	10	131	0	5,000	0	71
Little America:								
Casper, Wyo	II	2,248	2,248	0	0	0	0	0
Sinclair, Wyo	II	709	709	0	0	0	0	0
Marathon: Detroit, Mich	II	10,301	10,159	142	19,522	10,000	0	77
Mobil:								
Buffalo, N.Y	II	24,995	24,995	0	0	10,975	0	0
Ferndale, Wash	II	45,444	45,444	0	0	6,036	0	0
Joliet, Ill	II	14,606	2,132	12,474	0	12,989	0	6,789
Murphy: Superior, Wisc	I	25,625	20,253	5,372	10,000	8,000	0	8,000
NCRA: McPherson, Kan	II	836	836	0	0	0	0	0
Pester Refining Co.: El Dorado, Kan	II	196	196	0	0	0	0	0

Appendix.—*Canadian Allocation Program Rights—December 1979—Continued*

[Barrels per day]

Refiner/refinery	Priority	Base period volumes: Total Canadian runs	Canadian light crude oil	Canadian heavy crude oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
Phillips:								
Great Falls, Mont	II	1,222	1,222	0	0	0	0	0
Kansas City, Kan	II	3,352	3,105	247	0	0	0	0
Rock Island: Indianapolis, Ind	II	1,063	1,063	0	0	0	0	0
Shell:								
Anacortes, Wash	II	55,919	55,919	0	0	0	0	0
Wood River, Ill	II	8,673	8,673	0	0	0	0	0
Sohio: Toledo, Ohio	II	29,182	29,182	0	15,000	10,000	0	0
Sun: Toledo, Ohio	II	16,427	16,427	0	0	0	0	0
Tenneco: Chalmette, La	II	1,767	1,767	0	0	0	0	0
Texaco:								
Anacortes, Wash	II	41,229	41,229	0	0	0	0	0
Casper, Wyo	II	1,380	1,380	0	0	0	0	0
Lockport, Ill	II	1,244	1,244	0	0	0	0	0
Texas American: West Branch, Mich	II	2,011	2,011	0	0	0	0	0
The Refinery Corp.: Commerce City, Colo	II	174	174	0	0	0	0	0
Thunderbird: Cut Bank, Mont	II	554	554	0	50	0	[4]50	0
Total Petroleum: Alma, Mich	II	9,727	3,020	6,707	0	8,000	0	3,650
Union Oil of California Lemont, Ill	II	11,711	11,711	0	10,000	20,000	0	0
United Refining: Warren, Pa	II	9,917	9,789	128	0	0	0	0
Wyoming Refining Co.: New Castle, Wyo	II	676	676	0	0	0	0	0
Total Priority I		202,010	154,071	47,939	143,645	134,000	0	113,383
Total Priority II		469,029	440,588	28,441	50,398	83,000	50	10,587
Total I and II		671,039	594,659	76,380	194,043	217,000	50	123,970

[1] Although nominations were made on a quarterly basis, allocations reflect the volumes of crude oil which must be exported from Canada only during the month of November.
[2] Adjusted.
[3] Adjustments to base period volumes not given effect in allocation of Canadian heavy crude oil.
[4] Operational constraint.

[FR Doc. 79-36155 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

Advance Brake and Tune-Up Systems; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Advance Brake and Tune-Up Systems, 698 San Antonio Road, Palo Alto, CA 94303. This Proposed Remedial Order charges Advance Brake and Tune-Up Systems with pricing violations in the amount of $4,698.26, connected with the resale of motor gasoline during the period August 1, 1979 through September 29, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. On or before December 7, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C. on the 15th day of November 1979.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-36038 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

Alcatraz Mobil; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Alcatraz Mobil, 6392 Telegraph Avenue, Oakland, CA. This Proposed Remedial Order charges Alcatraz Mobil with pricing violations in the amount of $2,890.77, connected with the resale of motor gasoline during the period August 1, 1979 through September 19, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. On or before December 7, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 15th day of November 1979.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-36037 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[6450-01]

Aluminum Co. of America; Action Taken on Consent Order

Pursuant to 10 CFR 205.199J, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of final action taken on a Consent Order. Under the terms of 10 CFR 205.199J(c), no Consent Order involving sums in excess of $500,000 shall become effective until ERA publishes notice of its execution and solicits and considers public comments with respect to its terms.

On July 18, 1979, ERA published a notice of a Proposed Consent Order which was executed between Aluminum Company of America and the ERA (44 FR 41908, July 18, 1979). With that notice, and in accordance with 10 CFR 205.199J, ERA invited interested persons to comment on the proposed Consent Order. Also, in that notice, and in accordance with 10 CFR 205.283, interested parties who believe that they have a claim to all or a portion of the refund were instructed to provide written notification to ERA.

One party submitted written notification of claim; however, no comments on the terms, conditions or procedural aspects of the Consent Order were received. Therefore, ERA has concluded that the Consent Order as executed between ERA and Aluminum Company of America is an appropriate resolution of the compliance proceedings described in the notice published July 18, 1979, and hereby gives notice that the Consent Order shall become effective as proposed, without modification, on November 16, 1979.

Issued in Dallas, Texas, this 6th day of November, 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-36036 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

Rich's Shell Service; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Rich's Shell Service, 1160 W. Yosemite, Manteca, CA 95336. This Proposed Remedial Order charges Rich's Shell Service with pricing violations in the amount of $948.88, connected with the resale of motor gasoline during the period August 2, 1979 through October 15, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. On or before December 7, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 15th day of November 1979.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-36039 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP80-28]

Cities Service Gas Co.; Application

November 15, 1979

Take notice that on October 5, 1979, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP80-28 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline, taps, measuring, regulating and appurtenant facilities to enable Applicant to render natural gas service to authorized local gas distribution companies for resale, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to render natural gas service to authorized local distribution companies for resale to eleven rural customers pursuant to right-of-way easements and agreements and gas storage leases between Applicant and such customers.

Specifically, Applicant requests authorization to:

1. Tap Applicant's McLouth Storage 20-inch pipeline in Leavenworth County, Kansas, and construct facilities for delivery of natural gas to Bernie Barge.
2. Tap Applicant's Nowata 6-inch transmission pipeline in Washington County, Oklahoma, and construct facilities for delivery of natural gas to Jack Clark.
3. Tap Applicant's Southern Trunk 20-inch transmission pipeline in Labette County, Kansas, and construct facilities for delivery of natural gas to Kim Geren.
4. Tap Applicant's Jane 20-inch transmission pipeline in Newton County, Missouri, and construct facilities for delivery of natural gas to Jack F. Grant.
5. Tap Applicant's Knobnoster 3-inch transmission pipeline in Johnson County, Missouri, and construct facilities for delivery of natural gas to Glen Johnson.
6. Tap Applicant's Canadian-Blackwell 26-inch transmission pipeline in Kay County, Oklahoma, and construct facilities for delivery of natural gas to L. A. Meade.
7. Tap Applicant's Hugoton-Kansas City 26-inch transmission pipeline in Reno County, Kansas, and construct facilities for delivery of natural gas to Ralph Powell.
8. Tap Applicant's Plattsburg 6-inch transmission pipeline in Buchanan County, Missouri, and construct facilities for delivery of natural gas to Joanne Ray.
9. Tap Applicant's Ottawa-Tonganoxie 26-inch transmission pipeline in Douglas County, Kansas, and construct facilities for delivery of natural gas to Donna Irene Shirar.
10. Tap Applicant's Avard 6-inch gathering pipeline in Woods County, Oklahoma, and construct facilities for delivery of natural gas to Joe Shirley.
11. Tap Applicant's Falls City 12-inch Loop transmission pipeline in Atchison County, Kansas, and construct facilities for delivery of natural gas to Larry Wenger.

Applicant states that at the present time, it anticipates that the sale of gas to Bernie Barge, Joe Shirley and Larry Wenger would be made by Applicant on a direct sale basis, and the sale to the other eight customers would be made to The Gas Service Company for resale to these customers.

Applicant states that the estimated cost of construction of such facilities would be $8,285, which cost Applicant would finance from treasury funds on hand. Applicant states the estimated annual sales for each rural domestic service would be 250 Mcf, for a combined annual total of 2,750 Mcf.

Applicant believes that the proposed sales would have no effect upon the operation of Applicant's pipeline system.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 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 the Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35985 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-47]

Cities Service Gas Co.; Application

November 15, 1979

Take notice that on October 24, 1979, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma, 73125, filed in Docket No. CP80-45 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(c) of the Regulations thereunder (18 CFR 157.7(c)), for a certificate of public convenience and necessity authorizing the construction, for a 12-month period commencing January 1, 1980, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commisison 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 making miscellaneous minor rearrangements which would not result in any material change in the service presently rendered by Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $300,000. Applicant further states that the cost of the proposed facilities would be financed from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 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 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 unnecessay for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35986 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-48]

Cities Service Gas Co.; Application

November 15, 1979

Take notice that on October 24, 1979, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP80-48 an application pursuant to Section 7(b) of the Natural Gas Act and Section 157.7(e) of the Regulations thereunder (18 CFR 157.7(e)) for permission and approval to abandon, during the calendar year 1980, direct sales service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sales measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sales customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The application further states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 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 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 othewise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35987 Filed 11-21-79 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-49]

Cities Service Gas Co.; Application

November 15, 1979

Take notice that on October 24, 1979, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP80-49 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon, for the calendar year 1980, and operate various field compression and related metering and appurtenant facilities, 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 enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the instant application.

Applicant states that the total cost of the proposed construction and abandonment under Section 157.7(g) would not exceed $3,000,000. Applicant requests waiver of the single project cost limitation in order to permit an increase from $500,000 to $600,000 for single projects. Such a request is predicated upon the climbing inflation which has eroded the usefulness of the budget authorization since the Commission last revised the cost limitations, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 1979, file with the Federal 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 157.70). 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 and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35988 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-35]

Colorado Interstate Gas Co.; Notice of Application

November 15, 1979.

Take notice that on October 18, 1979, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP80-35 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the systemwide sale, transportation and exchange of natural gas with Panhandle Eastern Pipe Line Company (Panhandle), and for permission and approval to abandon service under existing natural gas exchange agreements between CIG and Panhandle, which the new agreement would supersede, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG's authorization for systemwide sale, transportation and exchange of natural gas with Panhandle pursuant to a 20-year gas purchase, transportation and exchange agreement would be from such sources of supply as set forth in the agreement and as contained in the application. CIG states that it requests authorization for the transportation and exchange of gas from additional sources of supply that either party may develop in proximity to the other party's existing or future pipeline system. It is indicated that no more than 300,000 Mcf of gas per day would be transported by one party for the other.

CIG further states that any additional delivery points or facilities that would be required to connect the proposed supply sources would be constructed under budget-type authority, or pursuant to a separate certificate application, if necessary. CIG asserts that it would submit an annual tariff filing informing the Commission of any additions or deletions of delivery points. CIG states that this annual tariff filing would detail the delivery points for all gas sources covered under the agreement.

CIG states that the agreement further provides for the sale of up to 25 percent of the gas delivered to either party's transmission system, not including any gas acquired by CIG Exploration, Inc., or Pan Eastern Exploration Co., with the purchasing party to reimburse the seller for such cost.

CIG further states that it seeks permission and approval for the abandonment of service under the following three existing exchange agreements between CIG and Panhandle:

(1) A gas sales and exchange agreement dated July 13, 1972, as amended, filed in Docket No. CP73-44, order issued March 30, 1973. Companion Rate Schedule X-2 of CIG's FERC Gas Tariff, Original Volume No. 2.

(2) A gas purchase and exchange agreement dated April 22, 1977, filed in Docket No. CP77-405, order issued July 6, 1977. Companion Rate Schedule X-19 of CIG's FERC Gas Tariff, Original Volume No. 2.

(3) A gas purchase and transportation agreement dated December 3, 1976, filed in Docket No. CP77-423, Phase I order issued February 17, 1978, Phase II order issued June 5, 1979. Companion Rate Schedule X-25 of CIG's FERC Gas Tariff, Original Volume No. 2.

CIG asserts that all services provided under the three existing agreements would be provided in the systemwide agreement, CIG further states than no facilities constructed pursuant to the above authorizations are to be abandoned.

CIG states that it and Panhandle would provide compensation for fuel usage and unaccounted for gas to the extent reasonably required, not to exceed 0.5 percent of the redelivery volumes.

It is further stated that if the exchange gas received by either party exceeds in total thermal content the exchange gas delivered by that party, then that party would pay a transportation rate equal to the product of the excess redelivery volumes and the delivering party's jurisdictional rates and charges for the cost of service.

It is stated that CIG and Panhandle would be able to receive gas which is distant from their existing pipeline systems without the need for major facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 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 157.70). 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 and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35989 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-44]

Consolidated Gas Supply Corp.; Notice of Application

November 15, 1979.

Take notice that on October 24, 1979, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP80-44 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas for Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to render a transportation service for Transco pursuant to a transportation agreement between the parties dated October 17, 1979. The purpose of this service, Applicant states, would be to assist Transco in receiving into its system natural gas which Transco would purchase from Sulpetro Limited (Sulpetro) of Calgary, Alberta, Canada, and which would be delivered to Applicant for the account of Transco by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee).

According to Applicant, it would transport for Transco from (1) the existing interconnection of the systems of Tennessee and Applicant in Erie County, New York, known as the Marilla connection, and (2) other mutually agreed to existing interconnections between the systems of Tennessee and Applicant, up to 37,500 dekatherms (dt) equivalent of natural gas per day. Applicant would deliver to Transco on a best-efforts basis thermally equivalent quantities, less quantities used by Applicant in providing the transportation service, at the existing interconnection of Applicant's and Transco's systems in Clinton County, Pennsylvania (the Leidy connection).

Applicant states that it would charge Transco 13.4 cents per dt for all gas transported and would retain 2.66 percent of gas received for fuel use. Applicant states the transportation arrangement would terminate on November 1, 1984. Applicant further states that no additional facilities are proposed herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 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. 79-35990 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP80-54]

El Paso Natural Gas Co.; State of New Mexico, Section 108 NGPA Determination; Notice of Preliminary Finding

Issued: November 2, 1979.

On September 19, 1979, the Commission received a notice of determination from the New Mexico Oil Conservation Division that the San Juan 28-5 Unit Well No. 15 meets all the requirements of a "seasonally-affected" stripper well under § 271.804(d) of the Commission's regulations implementing the Natural Gas Policy Act of 1978 (NGPA). The Commission published notice of this determination on October 5, 1979.

Section 271.804(d)(2) provides that if at any time after a final determination of stripper well status the operator acquires production reports for a period of 24 consecutive months which demonstrate that the well is "seasonally affected," a petition may be filed with the jurisdictional agency for a designation as a seasonally affected well. The designation of a stripper well as "seasonally affected" insures the seller exemption from the "continuing qualification" filing requirements of § 271.805, unless the rate of production exceeds an average of 60 Mcf per production day for a 12-month period. Accordingly, if the well qualifies as "seasonally affected" the seller's right to continue to collect the section 108 price does not terminate when the well exceeds an average 60 Mcf per production day during any 90-day production period.

This well was classified as a stripper well by the Commission (JD79-780) but later has produced more than an average of 60 Mcf per production day during a 90-day production period. The applicant claims that the production in excess of 60 Mcf is due to seasonal fluctuations.

Section 271.804 (d)(1) provides that in order to qualify for a designation as "seasonally affected," a well's 24-month production reports must demonstrate that the well is subject to seasonal fluctuations "which temporarily increase average production above 60 Mcf per production day" and the jurisdictional agency must find that the seasonal fluctuations "have not increased and cannot reasonably be expected to increase production levels above an average of 60 Mcf per production day for any 12-month period." In addition, § 274.206 (d)(4) requires that the applicant must file "a description of the nature of the seasonal fluctuations as inferred from the data supplied."

With the petition, El Paso submitted the wells production records for the 24 months from July, 1977, through June, 1979. These records demonstrate substantial increases in production during May and June of 1979 which are inconsistent with the production variations in the preceding 22 months. Moreover, the company did not specifically identify the cause of the production increases during May and June. Accordingly, the Commission cannot find substantial evidence in the record that the large increases in

production are only temporary and are due to seasonal fluctuations.

The Commission makes a preliminary finding, under 18 C.F.R. §§ 275.202 (a)(1)(i) and 271.806 (b) that the notice of determination submitted by the state of New Mexico Oil Conservation Division for the above-listed well 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. 79-35993 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. CP80-43, CP66-110, et. al.]

Great Lakes Gas Transmission Co.; Notice of Application and Petition To Amend

November 15, 1979.

Take notice that on October 23, 1979, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed pursuant to Section 7(c) of the Natural Gas Act an application for a certificate of public convenience and necessity in Docket No. CP80-43 authorizing Great Lakes to render transportation service for Northern Natural Gas Company (Northern) and to authorize the construction and operation of minor metering facilities for use in such transportation service, and a petition to amend the existing certificate in Docket Nos. CP66-110, *et al.*, to authorize Great Lakes to enter into (a) an amendment to Great Lakes' transportation contract dated September 12, 1967, with TransCanada Pipe Line Limited (TransCanada) and (b) an amendment to its delivery pressure agreement dated July 1, 1975, with TransCanada, as amended, all as more fully set forth in the application and petition which are on file with the Commission and open to public inspection.

Great Lakes states that on February 24, 1979, Northern entered into a gas sales contract with Consolidated Natural Gas Limited (Consolidated) for the purchase and importation of natural gas at Emerson, Manitoba. Applicant asserts that Northern has requested Great Lakes to transport up to 140,000 Mcf per day of such gas from an interconnection of Great Lakes' facilities with those of TransCanada near Emerson (Emerson interconnection) to an interconnection of the existing facilities of Northern and Great Lakes near Carlton, Minnesota. Great Lakes further states that, in accordance with the terms of the agreement between it and Northern dated June 29, 1979, Great Lakes proposes to transport said volumes as set forth herebefore.

Great Lakes states that deliveries would commence in November 1980, and that during the first five years, Great Lakes would transport up to 140,000 Mcf per day for Northern. Great Lakes states that, beginning in the sixth contract year, such volumes would be decreased each year thereafter, all in accordance with the terms of the transportation agreement.

Great Lakes further states that the transportation service would be performed with the addition of minor metering facilities with an estimated cost of $677,400, which would be financed with funds generated internally.

Great Lakes states that it further requests an amendment to its existing authorizations in Docket Nos. CP66-110, *et. al.*, to authorize it to enter into (a) an amendment to Great Lakes' gas transportation contract dated September 12, 1967, with TransCanada which is on file with the Commission as its Rate Schedule T-4, and (b) an amendment to its delivery pressure agreement dated July 1, 1975, as amended, with TransCanada. Great Lakes asserts that in order to perform said transportation service for Northern, Great Lakes would request TransCanada to reduce the contract demand under the gas transportation contract and to provide compression service for the delivery of volumes proposed pursuant to the delivery pressure agreement.

Great Lakes asserts that since the transportation service for Northern is made possible by a reduction in TransCanada's contract demand, Great Lakes would charge Northern a rate equal to the rate to be charged by Great Lakes to TransCanada under its Rate Schedule T-4. In addition, Great Lakes proposes to charge 1.0 cent per Mcf to cover related expenses for construction of metering facilities and administrative fee.

Great Lakes further proposes to purchase, for the account of Northern, fuel and company use gas required for the transportation service from TransCanada. It is stated that Great Lakes would also continue to pay TransCanada 0.645 cent per Mcf to compress the subject volumes from 550 psig to 750 psig, the pressure at which all gas is presently received by Great Lakes at the Emerson Connection.

Any person desiring to be heard to to make any protest with reference to said application and petition should on or before December 11, 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. 79-35991 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-41]

Harvey E. Yates, Co.; State of New Mexico Section 102 NGPA Determination; Final Order on Jurisdictional Agency Determination

Issued: November 2, 1979.

I. Background

On July 6, 1979, the Commission issued a Notice of Preliminary Finding that the determination made by the New Mexico Oil Conservation Division (New Mexico) that natural gas produced from the Queen formation through two wells[1] operated by Harvey E. Yates, Co. (Applicant) met all the requirements of the new onshore reservoir provision of section 102(c)(1)(C) of the Natural Gas Policy Act of 1978, Pub. L. No. 95-621 (NGPA) was not supported by

[1] State 22 Well No. 1 and the Mobil 27 State Well No. 1 (JD79-4974 and JD79-4972 respectively).

substantial evidence in the record on which the determination was based.

Section 102(c)(1)(C)(ii), the Behind-the-Pipe Exclusion, provided the basis for the Notice of Preliminary Finding. The exclusion states that a reservoir shall not qualify as a new, onshore reservoir if (1) the reservoir was penetrated before April 20, 1977, by an old well from which natural gas or crude oil was produced in commercial quantities (whether or not such production was from such reservoir); and (2) natural gas could have been produced in commercial quantities from such reservoir through such old well before April 20, 1977.

In the Notice of Preliminary Finding, the Commission applied an interpretation to section 102(c)(1)(C)(ii)(II) which reduced that prong of the Behind-the-Pipe Exclusion to a test of whether the reservoir was physically capable of producing natural gas prior to April 20, 1977 through the old well. Accordingly, the Commission stated:

> The records show that the subject reservoir (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.[2]
>
> Since the subject reservoir was penetrated by an old well which produced crude oil in commercial quantities 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 reservoir as defined in the NGPA.

Pursuant to § 275.202(d) of the Commission's regulations, an informal conference was requested and comments were filed by Applicant as well as Texas Oil & Gas Corp. and Senator Pete V. Domenici. The comments suggested that the Commission should apply a commercial standard in addition to a physical standard with respect to the second prong of the Behind-the-Pipe Exclusion. An informal conference with the Commission Staff was held on September 6, 1979. Applicant supplemented the record before the Commission by letter filed October 1, 1979.

[2] The record indicates that the Mobil 27 State Well No. 1 was spudded on June 28, 1977, was completed in the subject reservoir, and vented associated gas until October, 1978 when gas gathering facilities were installed. The State 22 Well No. 1 was spudded on February 15, 1977 and began producing crude oil in commercial quantities from the subject reservoir on April 14, 1977 with the associated gas being vented until October, 1978.

II. Discussion—Application of the Behind-the-Pipe Exclusion

At the time New Mexico made its determinations with respect to production through the subject wells from the Queen formation, the Commission interpreted the second prong of the Behind-the-Pipe Exclusion, section 102(c)(1)(C)(ii)(II) of the NGPA, as only requiring the application of a reservoir physical capability test without consideration of the commerciality of the reserves.

However, in a final order issued on September 28, 1979 in GP79–27,[3] the Commission concluded that both a physical and an economic test must be applied to the second prong of the behind-the-pipe exclusion.

Therefore, a reservoir falls within the behind-the-pipe exclusion if (1) the reservoir was penetrated before April 20, 1977 by an old well from which natural gas or oil was produced in commercial quantities; (2) the reservoir was physically capable of natural gas production through such old well before April 20, 1977 [4] and (3) such natural gas could have been produced in *commercial quantities* as determined by the the application of an economic test.

On the basis of review of the record before the Commission, we find that the natural gas produced from the subject reservoir through the subject wells qualifies under the new onshore reservoir category of section 102(c)(1)(C) of the NGPA.

While the State 22 No. 1 Well is an old well which produced crude oil in commercial quantities prior to April 20, 1977, and the subject reservoir demonstrated its capability to produce through that well prior to April 20, 1977 by virtue of the fact that associated natural gas was vented from that well prior to April 20, 1977, we find that the natural gas could not have been produced in commercial quantities prior to April 20, 1977 through that well. Specifically, the record indicates that the cost of building facilities to tie into the nearest pipeline facilities as of April 20, 1977 would have exceeded the revenues recoverable from selling the small quantity of Queen formation reserves attributable to the State No. 22 Well No. 1, the only well that falls within section 102(c)(1)(C)(ii)(I) of the NGPA and which could possibly have disqualified the subject reservoir.

[3] "While the flaring of casinghead gas demonstrates the physical capability of the reservoir to produce, the remote location and minimal productive capacity of the State 1–18–3D well, as well as the sourness of the gas, demonstrate that the economic test is not met and that the Behind-the-Pipe exclusion of section 102(c)(1)(C)(ii) does not apply. Therefore, the Commission believes that natural gas could not have been produced in commercial quantities from the Little Knife-Madison Reservoir through any of the four subject wells prior to April 20, 1977."

[4] The absence of facilities alone is insufficient to be disqualified under the physical capability test.

The Commission orders: Pursuant to 18 CFR § 275.202(e), New Mexico's determination that natural gas produced from the Queen formation through the State 22 No. 1 Well and the Mobil 27 State Well No. 1 qualifies as new natural gas under section 102(c)(1)(C) of the NGPA is affirmed.

By order of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–35994 Filed 11–21–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP80–39]

Natural Gas Pipeline Co. of America; Notice of Application

November 15, 1979.

Take notice that on October 22, 1979, Natual Gas pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80–39 an application pursuant to Section 7(c) of the natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Columbia Gas Transmission Corporation (Columbia), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has been advised by Columbia that Columbia has available at the terminus of the U–T Offshore System (UTOS) near Johnson's Bayou in Cameron Parish, Louisiana, volumes of gas produced in offshore Louisiana needing transportation subsequent to its initial transportation by High Island Offshore System (HIOS) and then by UTOS onshore. Applicant states that it owns and operates an extensive pipeline system, a portion of which extends between the interconnection of UTOS to the Texaco Inc.'s Henry Processing Plant near Erath in Vermilion Parish, Louisiana. Applicant further states that it has unused capacity in said portion of its pipeline and would be willing to transport thermally equivalent volumes of gas for Columbia from the terminus of UTOS for redelivery for Columbia's account to Columbia Gulf Transmission Company (Columbia Gulf), an affiliate of Columbia, at the tailgate of the Henry Processing Plant, thereby eliminating the necessity for enlarging the pipeline facilities of either Columbia or Columbia Gulf.

Applicant asserts that it is presently authorized to receive gas at the terminus of UTOS from Columbia Gulf under two agreements dated October 12, 1973, as amended in 1973, in Docket No. CP74–204, and March 27, 1978, in docket No. CP78–302.

Applicant states that it has entered into a gas transportation agreement with Columbia and Columbia Gulf dated September 17, 1979, under which Applicant contracts to receive from UTOS at the Johnson Bayou Delivery Point for the account of Columbia total daily volumes of gas up to 70,000 Mcf and to redeliver to Columbia Gulf for Columbia's account at the Henry Plant Redelivery point volumes equivalent to thermal content, less 0.25 percent of the volumes transported for fuel and less the volumes delivered to Applicant for Columbia Gulf's account under the 1973 and 1978 agreements.

Applicant states that it does not anticipate the need to construct any new facilities in order to implement the proposed transportation.

Applicant further states that pursuant to provisions of the agreement, Applicant proposes to bill Columbia a transporation charge of 3.7 cents per Mcf of gas received by applicant at the Johnson's Bayou Delivery Point for Columbia's account and transported under the agreement, less the reduction for fuel used.

Applicant states that it anticipates no significant changes in the operation of its system as a result of the receipt and transportation of gas as proposed herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 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 the 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. 79–35992 Filed 11–21–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP79–480]

Northwest Pipeline Corp.; Notice of Amendment to Application

November 15, 1979.

Take notice that on October 24, 1979, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84111, filed in Docket No. CP79–480 pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)), an amendment to its application filed September 10, 1979, in said docket, requesting authorization to increase the cost of a single onshore project from $2,400,000 to $2,500,000, all as more fully set forth in the amendment which is on file with the Commissoin and open to public inspection.

Applicant states that based on the proposed changes contemplated by the Commission in Docket No. RM79–37, it is now proposing a single onshore project cost of $2,500,000, which is consistent with the recommendation in RM79–37.

Applicant further states that the total project cost of $12,000,000 remains unchanged.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 11, 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. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–35995 Filed 11–21–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP80–34]

Panhandle Eastern Pipe Line Co.; Notice of Application

November 15, 1979.

Take notice that on October 18, 1979, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80–34 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale, transportation and exchange of natural gas with Colorado Gas Company (CIG) and for permission and approval to abandon certain gas purchase and exchange agreements with CIG, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that on December 1, 1978, it entered into a gas purchase, transportation and exchange agreement with CIG, which provides for a transportation service between the two parties transferring natural gas from sources proximately located to one party to the other party, for whose transmission system the source is remotely located. Panhandle asserts that the agreement provides for no more than 300,000 Mcf of gas per day to be transported from one party to another, and that Panhandle would be able to purchase from CIG up to 25 percent of said natural gas. Panhandle asserts that sould the transporting party exercise its option to purchase up to 25 percent of the volumes proferred by the other party at each delivery point, the receiving party would pay the delivering party a rate equal to the average purchase price of natural gas by the tendering party at the point of delivery and any authorized gathering and conditioning costs associated with the natural gas so delivered. Panhandle asserts that the two parties may utilize each other's gathering systems for the gathering of natural gas subject to the payment of an approved gathering charge.

Panhandle states that for this exchange service, the agreement

provides that should either party in any month receive a greater volume of the exchange gas than it delivers, the party receiving such excess deliveries should each month pay the delivering party an amount equal to the excess redelivery volumes times a transportation rate equal to the amount per Mcf reflected in the delivering party's jurisdictional rates.

Panhandle further states that the transportation rates, which are subject to periodic change, would initially be 24.5 cents per Mcf for Panhandle's system and 23.42 cents per Mcf for CIG's system.

Panhandle requests authorization for the sale, transportation and exchange of natural gas pursuant to the agreement, as amended, which is to continue for twenty years from its issuance on December 1, 1978. Panhandle asserts that the transportation and exchange of gas would be from specific sources of supply as set forth in the agreement, and requests further authorization for the transportation and exchange of gas from any new sources of supply as may be developed by Panhandle or CIG. Panhandle states that it proposes to submit an annual tariff filing which would reflect the addition or deletion of delivery points pursuant to the Agreement.

Panhandle further requests permission and approval to abandon existing gas purchase and exchange agreements between Panhandle and CIG, which received Commission approval in Docket Nos. CP72–181, as amended, CP77–388, CP77–383 Phase I and CP77–383 Phase II. Panhandle further states that such agreements have been superseded by the agreement of December 1, 1978.

Panhandle states that the implementation of the agreement with CIG would enable it to provide for the transportation of natural gas from the Rocky Mountain area to its transmission system.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 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 157.70). 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 and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–35996 Filed 11–21–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP79–42]

Sea Robin Pipeline Co. et al.; Notice of Petition To Amend

November 15, 1979.

Take notice that on October 18, 1979, Sea Robin Pipeline Company (Sea Robin), P.O. box 1478, Houston, Texas 77001, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. box 1396, Houston, Texas 77001, filed in Docket No. CP79–42 a joint petition to amend the order of May 17, 1979, issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Northern to own and operate jointly, with Sea Robin and Transco, certain offshore pipeline and related facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by order issued May 17, 1979, in Docket No. CP79–42 Sea Robin and Transco were authorized to construct and operate approximately 2.7 miles of 12-inch pipeline and related facilities (Block 261 lateral) to connect the Eugene Island 261 Field reserves to a sub-sea tap on Sea Robin's 24-inch pipeline located in Block 273, Eugene Island Area, offshore Louisiana. Petitioners assert that the Block 261 lateral is required to transport reserves located in the Eugene Island 261 Field, where proved and potential reserves are estimated to be 69.018 Bcf, with maximum daily deliveries projected to be 80,000 Mcf.

Petitioners assert that Northern contracted to purchase Diamond Shamrock Corporation's undedicated 13.33 percent in the Eugene Island 261 Field, and proposes to share in the ownership and operation agreement between Petitioners, dated July 2, 1979. Petitioners state that under the proposed agreement, Sea Robin, Transco, and Northern would hold 66.67 percent, 20.00 percent, and 13.33 percent of the facilities, respectively.

Northern proposes herein to own and operate jointly the undivided portion of the pipeline and the related facilities in the percentages set forth above, and Sea Robin proposes to relinquish the identical percentages to that which would be acquired by Northern.

Petitioners state that Northern and Sea Robin are presently negotiating the transportation agreement necessary to deliver gas from Northern's Eugene Island 261 Field from the point of receipt by Sea Robin to the point of receipt onshore. Petitioners further state that such gas would be exchanged onshore with United Gas Pipe Line Company, pursuant to authority requested in Docket No. CP79–194.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 10, 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. 79–35997 Filed 11–21–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. GP80-52]

Consolidated Gas Supply Corp.; State of West Virginia Section 108 NGPA Determinations; Notice of Preliminary Finding

Issued: November 2, 1979.

On September 19, 1979 [1] and September 20, 1979,[2] the Commission received notices of determinations from the West Virginia Department of Mines, Oil and gas Division (West Virginia), that the ten wells do not qualify as stripper wells under section 108 of the Natural Gas Policy Act of 1978 (NGPA). The Commission issued public notice of these determinations on October 5, 1979.

Section 108(b)(1)(A) of the NGPA provides that in order to qualify as a stripper well, a well must have produced nonassociated natural gas at a rate not exceeding 60 Mcf per production day during the preceding 90-day production period. The records accompanying these notices of determination indicate that the subject wells produced an average of 60 Mcf or less of nonassociated gas per production day during the relevant 90-day production period. Accordingly, the wells meet the initial requirement for a stripper well.

Section 108(b)(1)(B) provides that in order to qualify as a stripper well, a well must also have produced at its maximum efficient rate of flow (MER) during the preceding 90-day production period. Section 271.804(d) of the Commission's Interim Regulations[3] prescribes the methods by which MER may be established. In particular, § 271.804(d)(2) states that a well which has produced nonassociated gas at an average rate of 60 Mcf or less for the 90-day production period will be presumed to have produced at its MER if during the 12-month period ending concurrently with the 90-day production period the well produced gas at a rate not exceeding an average of 60 Mcf per production day. The records accompanying the notices of determinations indicate that the subject wells produced an average of 60 Mcf or less per production day during the 12-month period ending concurrently with the 90-day production period. Accordingly, the well appears to meet the MER requirement for stripper well natural gas.

Notwithstanding the record evidence described above, West Virginia made negative determinations regarding the wells' MER on the basis that during certain months of the 12-month period the wells' average production exceeded 60 Mcf per production day. The Commission believes these determinations were based on a misinterpretation of § 271.804(d)(2). Accordingly, on the basis of our review of the record submitted with these determinations, the Commission makes a preliminary finding, pursuant to 18 C.F.R. § 275.202(a)(1)(i), that the determinations by West Virginia that the ten wells do not qualify as section 108 stripper wells are not supported by substantial evidence in the record on which the determinations were made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-36002 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[1] JD No.; well name and number
79-20890; S. C. Biesezad 10918
79-20894; E. T. Donley 10862
79-20895; Greer Steel Co. 11022
79-20897; H. D. Smith
79-20898; E. Lawson 10940
79-20899; Boone County Coal 10844
79-20922; P. H. Hilkey 8034
79-20948; Vanetta Land Co. 9875.

[2] JD No.; well name and number
79-21272; W. G. Brown 10836
79-21273; H. C. Alexander 11288.

[3] Section 271.804(d) of the Interim Regulations was revised and renumbered in the Final Regulations for Section 108. (Order No. 44, issued August 22, 1979, Docket No. RM 79-73). However, the revised rule (§ 271.807) was made effective prospectively. Since the revised rule applies only to applications for determinations filed with the jurisdictional agency on or after September 21, 1979, the applications for the above wells remain subject to § 271.804 of the Interim Regulations.

[Docket No. CP65-49]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Notice of Petition To Amend

November 15, 1979.

Take notice that on October 19, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP65-49 a petition to amend the order of August 1, 1972 [1] issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to sell natural gas to Robeline-Stanley Gas Company, Inc. (Robeline-Stanley), purchasers of distribution facilities from Longhorn Gas, Inc. (Longhorn), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it is presently authorized to sell natural gas service to Longhorn up to a maximum daily quantity of 140 Mcf for Longhorn's Robeline, Louisiana, service area, under Petitioner's Rate Schedule GS-1 pursuant to a gas sales contract dated August 1, 1972.

Petitioner states that effective March 1, 1978, Longhorn sold its properties comprising the natural gas distribution system of its Robeline Service Area to Robeline-Stanley.

Therefore, Petitioner proposes herein to service Robeline-Stanley, in lieu of Longhorn, in the Robeline service area under Petitioner's Rate Schedule GS-1.

Petitioner states that this would not affect its ability to render presently authorized service to the Robeline service area or to other areas. It states that the change would not increase or decrease the maximum daily quantity of 140 Mcf authorized for the Robeline service area nor would it increase or decrease the annual volumetric limitation imposed on Petitioner's system.

Petitioner states that no additional facilities would be required.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 11, 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 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. 79-35998 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. CP80-30]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc., et al.; Notice of Application

November 15, 1979.

Take note that on October 16, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, Texas Eastern Transmission Corporation (Tetco), P.O. Box 2521, Houston, Texas 77001, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, and Natural Gas

Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP80–30 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities necessary to connect gas purchased in the East Cameron South Addition Area, offshore Louisiana, to the West Cameron Block, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to construct and operate 7.2 miles of 10-inch pipeline and appurtenant facilities to permit the attachment of gas purchased by Tennessee, Tetco, Trunkline, and Natural from the East Cameron South Addition Area. It is stated the proposed pipeline would originate at the East Cameron 353 A platform, offshore Louisiana, and would extend to the Project 601 system to a subsea valve in West Cameron Block 60.

Applicant states the proposed facilities would permit the attachment of volumes of gas from the area indicated below:

Block	Contract Date	Producer	Producer percentage ownership	Purchaser	Percentage of producer interest committed
EC354	9-7-79	Tenneco Exploration, Ltd	50	Tennessee	100.0
EC354	(1)	Texaco	50	Natural	100.0
EC353	7-20-73 [2]	Anadarko	12	Trunkline	100.0
EC353	9-27-73 [2]	Texas Pacific	11	Trunkline	100.0
EC353	5-31-73 [2]	Sun Oil Company	49	Trunkline	100.0
EC353	(3)	Pan Eastern Exploration	12	Trunkline	100.0
EC353	7-16-73 [2]	Diamond Shamrock	16	Trunkline	100.0
EC351	3-12-73 [2]	Ocean Production Company	5.42	Tennessee	100.0
EC351	3-12-73 [2]	Ocean Oil & Gas Company	16.25	Tennessee	100.0
EC351	3-12-73 [2]	Murphy Oil Co	10.83	Tennessee	100.0
EC351	3-12-73 [2]	Valhi Inc	20	Tennessee	100.0
EC351	5-4-73 [2]	General American Oil Co. of Texas.	32.5	Tennessee	100.0
EC351	5-9-73 [2]	Dalco Oil Co	5	Tennessee	100.0
EC351	6-6-73 [2]	Southland Oil Co	10	Tennessee	100.0
EC352	9-20-79	Louisiana Land Offshore Exploration Company, Inc.	82	TETCO	100.0
EC352	8-6-79	Texas Eastern Exploration Company.	18	TETCO	100.0

[1] Contract to be submitted upon execution.
[2] Advance Payment Agreement which has been previously filed with the Commission.
[3] This 12% is committed to Trunkline's affiliate, Panhandle Eastern Pipeline Company, pursuant to Stipulation and Agreement, dated August 20, 1976 and approved by Commission order of December 22, 1976 in Docket No. CP71-237, *et. al.* Trunkline will transport such gas for Panhandle Eastern pursuant to a contract to be entered into with Panhandle Eastern and an application to filed requesting appropriate authorization for such service.

Applicants estimate that approximately 48 BCF of recoverable proved gas reserves (dry) would be available from the East Cameron 353 A area for delivery through the proposed facilities. Applicants state the total deliverability from such area is expected to be approximately 40,000 Mcf of gas per day as a result of installed compression.

Applicants state the total cost of such facilities is approximately $4,918,700. Of the total cost, Applicants state 26.4 percent would be borne by Tennessee, 33 percent by Tetco, 30.3 percent by Trunkline, and 10.3 percent by Natural. It is stated that the proposed facilities would be financed from funds on hand, borrowing under revolving credit agreements or short term loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 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. 79-35999 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-45]

Transcontinental Gas Pipe Line Corp.; Notice of Application

November 15, 1979.

Take notice that on October 24, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80–45 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas for Penn Fuel Gas, Inc. (Penn Fuel), an affiliate of Union Gas Company (Union), one of Applicant's customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Penn Fuel has contracted with National Gas Storage Corporation (Storage Corporation) for underground storage service up to a maximum of the dekatherm equivalent of 850,000 Mcf of natural gas and has requested Applicant to transport injection and withdrawal quantities. Applicant proposes to transport up to 7,800 Mcf per day on an interruptible basis.

Injection quantities would be delivered to Storage Corporation's affiliate, National Fuel Gas Supply Corporation (National Fuel), through existing facilities at the Wharton Storage Field in Pennsylvania, it is stated, and withdrawal quantities would be delivered to Applicant at that point and in turn delivered to Union at existing points of delivery for the account of Penn Fuel. Of the quantities transported, Applicant proposes to retain 2 percent during injection and 3 percent during withdrawal for

compressor fuel and line loss makeup. For all quantities transported and delivered Penn Fuel would pay Applicant an initial rate of 7.0 cents per dekatherm, it is stated.

According to Applicant, the transportation proposed herein would assist Union in minimizing curtailments to its high priority markets during the coming heating seasons.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 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. 79-36000 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-26]

Transcontinental Gas Pipe Line Corp.; Notice of Application

November 15, 1979.

Take notice that on October 15, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP80-26 an application pursuant to Section 7(c) of the Natural Gas Act and Subpart F of Part 284 of the Regulations pursuant to the Natural Gas Policy Act for authorization to transport natural gas for Consolidated Edison Company of New York, Inc. (Con Ed) on an interruptible basis for a period commencing on the date of initial delivery and ending May 31, 1980, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposed to transport up to 15,000 dekatherms (dt) equivalent of natural gas per day on behalf of Con Ed which Con Ed has arranged to purchase from UGI Corporation (UGI). Applicant continues that UGI would make available to Texas Eastern Transmission Corporation (Texas Eastern) up to 15,000 dt of gas per day at an existing interconnection at Rockwood, Somerset County, New Jersey, which would, in turn, transport and deliver such quantities to Applicant at their existing Lambertville interconnection in Somerset County or other mutually agreeable points. Applicant states it would deliver said gas to Con Ed at Applicant's existing delivery points to Con Ed in the New York metropolitan area.

For such transportation service, Applicant states that Con Ed would pay Applicant 7.0 cents per dt, and Applicant would retain 0.6 percent of the quantities received for compressor fuel and line loss make-up.

Applicant states that Con Ed has advised that it would burn the gas directly to generate electricity and/or steam, and that such gas would displace fuel oil which would otherwise be burned for such purposes. Applicant asserts that this application is being filed pursuant to Commission Order Nos. 30 and 30-A, which provide for transportation of gas for boiler-fuel use.

Applicant further asserts that the subject transportation service would be on an interruptible basis and subordinate to existing transporation arrangements on Applicant's Lambertville Lateral and to Applicant's deliveries to Con Ed under Applicant's Rate Schedules CD, PS, GSS, and WSS.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 11, 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 Section 7 and 15 of the Natural Gas Act and the Commission 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 filled 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. 79-36001 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Special Counsel for Compliance

Consent Order With Mobil Oil Corp. Made Final

AGENCY: Department of Energy.

ACTION: Notice of Action Taken on Consent Order.

SUMMARY: Pursuant to 10 CFR 205.199J, the Office of Special Counsel (OSC) of the Department of Energy hereby gives notice that the Consent Order executed between OSC and Mobil Oil Corporation on August 15, 1979 is final, effective upon publication of this notice. The Consent Order addresses Mobil's compliance with the crude oil production regulations, subpart D of 10 CFR Part 212, for the months September 1973 through May 1979. In the Consent Order, Mobil agrees to remedy the violations alleged by refunding and reducing its costs by a total of $13,796,387.

On September 20, 1979, notice was published in the Federal Register at 44

FR 54544, that the proposed Consent Order had been signed. The notice set out the background of the Consent Order, summarized its terms and conditions and provided 30 days for the receipt of comments before determining whether to make the Consent Order final. OSC has considered the two comments received and determined to adopt the proposed Consent Order without modification.

FOR FURTHER INFORMATION CONTACT: Richard Wolf, Deputy Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania Avenue NW., Room 2140, Washington, D.C. 20461, 202–633–9165.

Copies of the Consent Order may be received by written request to the same address. Copies are also available at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue SW., Room GA–152.

SUPPLEMENTARY INFORMATION: DOE regulations provide that notice must be given of the signing of a consent order. In the notice, published in the **Federal Register** on September 20, 1979, at 44 FR 54544, and in a press release dated September 17, 1979, OSC summarized the Consent Order and the facts relevant thereto, as required by regulation. A 30 day period was established for the filing of comments. Two comments were received; none were submitted after the period ended. OSC considered both comments in determining what action to take concerning the proposed Consent Order.

The terms and conditions of the Consent Order are, in summary:

1. OSC concluded its audit of Mobil's compliance with the crude oil sales regulations from August 1973 through May 1979.

2. Mobil agreed to pay a total of $13,796,387.78; $2,236,165.65 through price reductions or cash refunds to identifiable crude oil purchasers identified as having received crude oil from the properties with respect to which allegations of overcharges were made by OSC.

3. The balance, attributable to interaffiliate transfers, or OSC's projections to unaudited properties, will be deducted from Mobil's monthly cost allocation reports for months during the period in which the alledgedly improper cost was reported. Mobil will adjust its entitlements reports and obligations for the months affected.

4. Mobil agreed to pay a compromise penalty of $50,000.

The September 20, 1979, notice, or a copy of the Consent Order, available at the address noted above, should be consulted for further information.

Two comments were received. An individual objected to the compromise civil penalty of $50,000 as an insufficient sanction for a "white collar crime." The comment indicates a misconception of the nature of the violations alleged against Mobil. No criminal act was alleged, found or admitted. The matters raised in OSC's audit ranged from mathematical errors to disputes over interpretation and application of the regulations. In considering the nature of the allegations, OSC believes the amount of the penalty is appropriate.

A group representing consumer interests objected to the Consent Order's remedial terms because the refunds are directed at the purchasers of Mobil's crude oil, and because the Consent Order does not place requirements on these receipients to pass through such refunds to individual consumers.

The Consent Order is an agreement resolving an enforcement dispute between Mobil and OSC. The order requires Mobil to refund specified amounts totalling $2.2 million to customers identified as having purchased crude oil from Mobil, providing full restitution to them. The Consent Order also provides that Mobil is to advise these recipients that the amounts are to be considered as reductions in the recipients' current crude costs. Accordingly, those refunds made by reduced crude costs will be immediately reflected as less costs to be passed through by the recipients. OSC cannot, however, require action by third parties receiving checks or credit memoranda by means of a Consent Order negotiated solely with Mobil. DOE will determine in the course of its audits whether the recipients have properly accounted for the refund.

Much of the refund represents transfers by Mobil of crude from its producing to its refining entities. Of the total of $13.7 million, $9.4 million is the amount of claimed costs disputed by OSC. Mobil will reduce its costs in the months the costs were originally claimed. An additional $2.1 million is being deducted from Mobil's banks of unrecouped increased costs representing the amount OSC projects may have been charged by Mobil for crude oil from unaudited properties. Once the adjustments are made, it can be determined whether Mobil's prices were supportable. If not, OSC will take appropriate action, pursuant to paragraph 9 of the Terms and Conditions.

The consumer organization raised the possibility of "double recoveries" under paragraph 6 of the Terms and Conditions for claimants who might also receive benefits under other provisions of the Consent Order. The organization further suggested the difficulty of determining appropriate prices to implement the requirements of paragraph 2. The DOE monitoring and enforcement provisions of the Consent Order are designed to prevent such problems from occurring, and appear to be sufficient.

OSC has complied with the requirements of 10 C.F.R. 205.199J by publicizing the terms of the proposed Consent Order and making copies available, and by reviewing and considering the comments received in response to the notice. OSC has concluded that the Consent Order entered with Mobil Oil Corporation is proper, appropriate, and should be made effective. Therefore, the Consent Order is made final by publication of this notice.

Issued in Washington, D.C., November 16, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 79-36153 Filed 11-21-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1364-8; OPP-66057]

Pesticide Programs; Intent to Cancel Registrations of Certain Pesticide Products

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of intent to cancel pesticide registrations.

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their desire to voluntarily cancel registrations of the products listed herein:

EPA registration No.	Product name	Registrant
239-1946	Ortho Delnav 4 Emulsive.	Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804.
239-2068	Ortho Delnav 8 Flow Concentrate.	Do.
449-116	Techne Endrin Emulsifiable 1.6 Pounds.	Techne Corp., PO Box 7305, Kansas City, MO 64116.
1201-204	Puregro Delnav 8-E Emulsifiable Concentrate.	Puregro Co., 1111 W. Sixth St., Los Angeles, CA 90017.
2568-4	3804 Baltocop Penta-Clear Wood Preservative.	Jotun-Baltimore Copper Paint Co., 501 Key Highway, Baltimore, MD 21230.

EPA registration No	Product name	Registrant
6754-34	Professional Delnav 25 Insecticide Emulsifiable Concentrate.	Dettelbach Pesticide Corp., PO Box 9986, Atlanta, GA 30319.
8605-2	Rucco Fly-Away Special Cattle Mineral Medicated.	Rucklos Calcium Carbonated Co., 125 Cedar Crest Dr., Cedar Falls, IA 50613.
30575-1	Magnatex Dust Control Additive.	Texel Industries, Inc., PO Box 658, Cleburne, TX 76031.

The Agency has agreed that such cancellations shall be effective on or before December 24, 1979 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this action.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier; *Provided,* That the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of such existing stocks has been determined to be consistent with the purposes of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-792), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the OPP document control number "[OPP-66057]" and the EPA registration number/product name to which the comments pertain. Any comments filed regarding this notice will be available for public inspection in the office of Process Coordination Branch at the above address from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended (86 Stat. 973, 89 Stat. 751, (7 U.S.C. 136)))

Dated: November 15, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs

[FR Doc. 79-36040 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1364-7; OPP-66056]

Pesticide Programs; Intent to Cancel Registrations of Certain Pesticide Products

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of intent to cancel pesticide registrations.

SUPPLEMENTARY INFORMATION: EPA has been advised by the following firms of their desire to voluntarily cancel registrations of the products listed herein:

EPA registration No.	Product name	Registrant
239-1939	Ortho Nemagon 70 Soil Fumigant.	Chevron Chemical Co., 940 Hensely St., Richmond, CA 94804.
407-277	Imperial 20% Heptachlor Granules.	Imperial Inc., PO Box 423, Shenandoah, IA 51601.
8513-7	MIL-DU-WASH	Devoe & Raynalds Co., Inc., PO Box 23603, Tampa, FL 33622.
1021-740	MGK Formula No. 6357.	McLaughlin Gormley King Co., 8810 Tenth Ave. No., Minneapolis, MN 55427.
1021-1058	Pyrocide Pet Spray Concentrate 6766.	Do.
1021-1258	Pyrocide Stablized Growers Spray 7083.	Do.
3840-2	Refined White Arsenic Trioxide (Technical).	Intsel Corp., 825 Third Ave., New York, NY 10022.
6913-14	Abalene Rodent Poison.	Abalene Pest Control Services, Inc., 257 Dutchess Turnpike, Poughkeepsie, NY 12603.
8917-16	Telone Soil Fumigant.	J. R. Simplot Co., PO Box 912, Pocatello, ID 83201.
11682-20	Simplot Soilbuilders Telone C Soil Fungicide & Nematocide.	Do.
20954-25	Best All Out Weed Killer.	Zoecon Corp., 975 California Ave., Palo Alto, CA 94304.
20954-67	Liquid Edger	Do.

The Agency has agreed that such cancellations shall be effective on or before December 24, 1979 unless within this time the registrant, or other interested person with the concurrence of the registrant, requests that the registration be continued in effect. The registrants were notified by certified mail of this section.

The Agency has determined that the sale and distribution of these products produced on or before the effective date of cancellation may legally continue in commerce until the supply is exhausted, or for one year after the effective date of cancellation, whichever is earlier: *Provided,* That the use of these products is consistent with the label and labeling registered with EPA. Furthermore, the sale and use of such existing stocks has been determined to be consistent with the purposes of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. Production of these products as pesticide formulations after the effective date of cancellation will be considered to be a violation of the Act.

Requests that the registration of these products be continued, may be submitted in triplicate to the Process Coordination Branch, Registration Division (TS-792), Office of Pesticide Programs, Envionmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the OPP document control number "[OPP-66056]" and the EPA registration number/product name to which the comments pertain. Any comments filed regarding this notice will be available for public inspection in the office of Process Coordination Branch at the above address from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 6(a)(1) of FIFRA as amended (86 Stat. 973, 89 Stat. 751, (7 U.S.C. 136)).

Dated: November 15, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-36041 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1364-5; OPP-50445]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 707-EUP-95. Rohm and Haas Company, Philadelphia, PA 19105. This experimental use permit allows the use of 130 pounds of the chemical hybridizing agent sodium 1-(*p*-chlorophenyl)-1,4-dihydro-6-methyl-4-oxopyridazine-3-carboxylate on wheat to evaluate hybridizing potential. A total of 27 acres is involved; the program is authorized only in the States of Colorado, Indiana, Kansas, Michigan, Nebraska, Oregon, and Pennsylvania. This experimental use permit is effective from October 18, 1979

to October 18, 1980. This permit is being issued with the limitation that all treated crops will be destroyed or used for research purposes only. (PM–25, Robert Taylor, Room: E–301, Telephone: 202/755–2196)

No. 400–EUP–56. Uniroyal, Inc., Bethany, CT 06525. This experimental use permit allows the use of 26.8 pounds of the fungicide 2,4,5-trimethyl-*N*-phenyl-3-furancarboxamide on wheat, barley, and oats to evaluate control of smut and bunt. A total of 22 acres is involved. The experimental use permit is effective from October 23, 1979 to October 23, 1980.

No. 400–EUP–57. Uniroyal, Inc., Bethany, CT 06525. This experimental use permit allows the use of 1.55 pounds of the fungicide 2,4,5-trimethyl-*N*-phenyl-3-furancarboxamide on wheat, barley, and oats to evaluate control of smut and bunt. A total of 22 acres is involved; this program and the one above are authorized only in the States of California, Illinois, Minnesota, Nebraska, North Dakota, Texas, Utah, and Washington. This experimental use permit is also effective from October 23, 1979 to October 23, 1980. The permits will use the same active ingredient but different formulations. These experimental use permits are being issued with the limitation that treated seed must not be used for food, feed, or oil, and all crops grown from treated seed must be destroyed or used for research purposes only. (PM–21, Henry Jacoby, Room: E–305, Telephone: 202/755–2562)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; (7 U.S.C 136))

Dated: November 15, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79–36043 Filed 11–21–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL1364–6; OPP–30172]

Pesticide Programs; Receipt of Application To Register a Pesticide Product Containing New Active Ingredient

AGENCY: Office of Pesticide Programs, Environmental Protecton Agency (EPA or the Agency).

ACTION: Notice of receipt of application.

SUPPLEMENTARY INFORMATION: Ciba-Geigy Corp., PO Box 11422, Greensboro, NC 27409, has submitted to EPA an application to register the pesticide product APRON 355D FUNGICIDE (EPA File Symbol 100–ANI) containing 35% of the active ingredient metalaxyl (*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester which has not been included in any previously registered end-use pesticide product. The application proposes that the pesticide be classified for general use as a fungicide for control of downy mildew on sorghum grown for seed.

Notice of approval or denial of this application to register APRON 355D FUNGICIDE will be announced in the **Federal Register.** Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR Part 162), the test data and other scientific information deemed relevant to the registration decison may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved. Notice of receipt of this application does not indicate a decision by the Agency on the application.

COMMENTS/INQUIRIES: Interested persons are invited to submit written comments on this application. Comments may be submitted, and inquiries directed, to Product Manager (PM) 21, Mr. Henry Jacoby, Room E–305, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755–2562.

The comments must be received on or before December 24, 1979, and should bear a notation indicating the EPA File Symbol 100–ANI. Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by Ciba-Geigy Corp., as well as all written comments filed in connection with this notice, will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Statutory Authority: Section 3(c)(4), FIFRA and 40 CFR Part 162.

Dated: November 15, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79–36042 Filed 11–21–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1365–7]

Administrator's Toxic Substances; Advisory Committee; Cancellation of Meeting

The two-day meeting of the Administrator's Toxic Substances Advisory Committee scheduled for Thursday, November 29, and Friday, November 30, 1979 has been cancelled because it is not necessary to hold the meeting as planned. Notice of this meeting was published in the **Federal Register** on November 14, 1979 (44 FR 65665).

For further information contact: Ms. Marsha Ramsay, Executive Secretary, Administrator's Toxic Substances Advisory Committee, Office of Pesticides and Toxic Substances (TS–793), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Telephone 202–426–1129.

Dated: November 19, 1979.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 79–36297 Filed 11–21–79; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

[PR Docket No. 79–299]

Werner W. am Ende; Designating Application for Hearing on Stated Issues

Adopted: November 6, 1979.

Released: November 13, 1979.

In the matter of application of Werner W. am Ende, 421 19th Street, Moline, Illinois 61265, PR Docket No. 79–299, for renewal of Amateur radio station license WD9CML and Novice Class Amateur Radio Operator License.

The Chief, Private Radio Bureau, has under consideration the application of Werner A. am Ende, dated January 12, 1979, to renew the Amateur radio station (WD9CML) and Novice Class Amateur radio operator licenses issued to him on March 22, 1977, for two year terms.[1] [2]

[1] Effective May 15, 1978, § 97.59 of the Amateur Radio Service Rules was modified. The license term for Novice Class Amateur Operator licenses was changed from two years to five years from the date of issuance of a new or renewed license.

[2] Pursuant to § 1.926(c) of the rules, am Ende has continuing operating authority pending a

Footnotes continued on next page

1. Information before the Commission indicates that on May 30, 1978, am Ende's radio station made transmissions on the frequency 27.505 MHz. That frequency was assigned for use by radio stations in the Industrial Radio Service. Am Ende did not possess a license authorizing the use of that frequency. Thus, this radio operation was apparently in violation of Section 301 of the Communications Act of 1934, as amended.

2. If the apparent radio operation on May 30, 1978, was under the color of authority of am Ende's Amateur radio license WD9CML, the operation was in violation of the following Amateur Rules: 97.7(e) (authorized emissions); 97.61(a) (authorized frequencies); 97.84(f) (station identification requirements); [3] and 97.121 (false signals).

3. On January 19, 1976, Werner W. am Ende was issued Citizens Band (CB) radio station license KBP–6496, for a five year term.[4] If the apparent radio operation on May 30, 1978, was under the color of authority of am Ende's CB license, it was in violation of the following CB Rules: 95.455(a) (authorized frequencies); 95.469(b) (time limitations on communications); 95.471(c) (station identification requirements).[5]

4. The information before the Commission further indicates that the May 30, 1978, transmissions were not identified by either of am Ende's Commission-assigned call signs (WD9CML or KBP–6496) but were identified by the designation "49W78". Thus, it appears that the operator participated in a club or organization whose members operate on unauthorized frequencies and use special identifiers to avoid detection by the Commission.

5. The apparent radio operation on May 30, 1978, was the subject of two Official Notices of Violation mailed to am Ende on July 31, 1978.

6. Section 309(e) of the Communications Act of 1934, as amended, requires that the Commission designate an application for hearing where it cannot find that grant of the application would serve the public interest, convenience, and necessity. The radio operation described above precludes the Commission from determining that a grant of am Ende's application would so serve the public interest, convenience and necessity.

7. It is ordered, that if am Ende wants hearing on this matter, he must file a written request for a hearing within 30 days.[6] If a hearing is requested, the time, place, and Presiding Judge will be specified by subsequent Order. If am Ende waives his right to a hearing, his application will be dismissed with prejudice. Accordingly, it is ordered, that am Ende's application for renewal of his Amateur radio station license (WD9CML) and his Novice Class Amateur radio operator license is designated for hearing upon the following issues:

(a) To determine whether am Ende's radio station was operated on May 30, 1978, in violation of Section 301 of the Communications Act of 1934, as amended, or §§ 97.7(e), 97.61(a), 97.84(f) and/or 97.121 of the Commission's Amateur Radio Service Rules, or §§ 95.455(a), 95.469(b), and/or 95.471(c) of the Commission's CB Rules.

(b) To determine whether the transmissions on May 30, 1978, were identified by a club identifier in lieu of Commission-assigned call sign.

(c) To determine, in light of the above, whether grant of the application would serve the public interest, convenience, and necessity.

8. It is further ordered, that copies of this Order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to am Ende at his address of record (as shown in the caption).

Chief, Private Radio Bureau.

Raymond A. Kowalski,

Acting Chief, Compliance Division.

[FR Doc. 79–36015 Filed 11–21–79; 8:45 am]

BILLING CODE 6712–01–M

[BC Docket No. 79–303, 79–304; File Nos. BPH–10744, BPH–11011]

Joy Broadcasters, et al; Memorandum Opinion and Order; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: November 7, 1979.

Released: November 14, 1979

In re applications of Lowell M. Bush d/b/a Joy Broadcasters, Lancaster, Wisconsin, Req: 97.7 MHz, Channel 249,, 3 kW (H&V), 300 feet, BC Docket No. 79–303, File No. BPH–10744; Beverly J. Peterson and Bert R. Peterson, Lancaster, Wisconsin, Req: 97.7 MHz, Channel 249 3 kW (H&V), 235 feet, BC Docket No. 79–304, File No. BPH–11011; for construction permits.

1. The Commission, by its Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration: (a) The above-captioned mutually exclusive applications of Beverly J. Peterson and Bert R. Peterson (Peterson) and Lowell M. Bush d/b/a/ Joy Broadcasters (Joy); (b) a petition to specify issues filed by Peterson; and (c) related pleadings.

2. *Joy Broadcasters.* Joy originally listed its equipment costs at $25,000, and supported its estimate with a letter from a supplier offering equipment at $34,835, with deferred credit. Joy later amended its application to state that it can "put the station on the air for $14,000." Joy states that used equipment is now available to it, but Joy does not list the equipment it intends to buy nor does it show any purchase agreements. Therefore, Joy has not shown that used equipment is reasonably available for purchase. If Joy intends to use its original purchase letter of $34,835 as an alternative plan for constructing its station, the letter Joy has submitted does not show that the equipment supplier has made a preliminary check of Joy's credit, and hence, the letter cannot be relied upon to show that Joy has a reasonable assurance of purchasing equipment with deferred credit.

3. To meet its revised total cost estimate of $21,320, Joy relies on $20,000 in personal loans, a $5,000 bank loan, and $1,500 cash on hand. The bank loan has been shown to be available. However, Joy did not provide a current balance sheet to show that current assets exceed current liabilities, so the availability of the $1,500 has not been demonstrated. With respect to the other loans, Joy states that it has a verbal agreement with the lenders that the loans will run for three years with options to renew at 10% interest, payments to begin 14 months after the station begins operation. No written agreements were submitted. Section III, Question 4a to FCC Form 301 requires that for each person who has agreed to furnish funds to the applicant, a copy of the agreement must be submitted, showing the amount, rate of interest, terms of repayment, and security, if any. Therefore, we cannot accept that the verbal agreements give a reasonable assurance that the funds are available. Because Joy has not made a sufficient showing of its costs and its funding, a general financial issue will be specified.

4. Peterson has petitioned the Commission to specify three matters

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Footnotes continued from last page

determination of whether his renewal application should be granted or denied.

[3] Effective September 27, 1977, § 97.87(f) of the Amateur Radio Service Rules was renumbered as § 97.84(f). The Amateur rules cited herein are those which were in effect on the date of the conduct in question.

[4] On March 5, 1979, am Ende's CB license (KBP–6496) was cancelled at his request.

[5] The Commission's CB Rules have been revised and renumbered. The Rules cited herein are those in effect on the date in question.

[6] The attached form should be used to request or waive hearing. It should be completed and mailed to the Federal Communications Commission, Washington, D.C. 20554, in the enclosed envelope.

relating to Joy's application. Peterson questions whether Joy has the financial resources to make its proposed transmitter site suitable for use. Peterson also questions whether Joy has proposed an adequate staff for its station. In addition, Peterson requests a comparative issue to determine whether the public interest would be better served by the general market radio format it has proposed, or by the specialized religious format proposed by Joy.

5. As for the first two questions, Joy has submitted a statement by the transmitter site owner pledging to clear it at no cost to Joy, affidavits of three persons who intend to donate their time to work at Joy's proposed station, and a work schedule which shows adequate staffing throughout the week. Therefore, these requested issues will not be included. Turning to Peterson's request to compare programming, this issue was most recently addressed by the Commission in *George E. Cameron, Jr. Communications*, 71 FCC 2d 460, 45 RR 2d 689 (1979), in which the Commission stated:

> [I]nquiry along these lines has not been proved fruitful or enlightening * * *. Moreover, since a licensee may change formats at any time without Commission approval, this is far from the most satisfactory ground for a choice between competing applicants. We have, therefore, decided not to allow inquiry into the relative need for program formats under the standard comparative issue, except on a pre-designation showing that a proposed specialized format is not available in the particular market in a substantial amount. *Ibid.*, at 694.

In its request, Peterson has made no showing that its general market radio format is not available to residents of Lancaster. Therefore, no issue is warranted.

6. Finally, Joy has amended its application to correct deficiencies in its ascertainment survey cited earlier by the staff. It has submitted a compositional study which identifies all significant groups; it has surveyed leaders of the significant Lancaster groups and of outlying communities; it has also provided a general public survey; and it has proposed responsive programming. Therefore, we find Joy to be in substantial compliance with the *Primer*.

7. *Peterson.* Peterson is the licensee of WGLR, and AM station in Lancaster, Wisconsin. Peterson estimates that it would cost $24,933 to construct its new FM station and operate for three months, and relies upon a bank loan of $25,000 to cover these costs. Although the cost estimate appears low, Peterson says it will be purchasing used equipment (a letter from a used equipment supplier was submitted) and will use its existing AM tower and building at no incremental cost. Peterson did not include any legal fees in its cost estimate, stating that the legal fees have already been paid. However, no substantiation has been provided, nor is it clear that the legal fees already paid include hearing costs. In light of the fact that Peterson is relying solely on a loan of $25,000 to meet an estimated cost of construction and operation of $24,933, there appear to be no resources available to meet additional legal fees. Accordingly, a limited financial issue to determine whether Peterson has the financial ability to pay legal fees incident to a hearing will be specified.

8. In the compositional study submitted with its ascertainment report, Peterson describes Grant County (in which Lancaster is the county seat) as ranking "number one in Wisconsin in hog and beef production, and is among the highest in dairying. Rich, fertile, rolling hills dotted with modern farms surround Lancaster * * * Grant County ha[s] 3,090 farms * * * for a total of 677,300 acres of farmland * * * the third highest total in Wisconsin." Yet Peterson has not provided a single interview of a local leader of agriculture. The failure to provide interviews of this key group brings into question whether Peterson has substantially complied with the 1971 *Primer*. Accordingly, a limited ascertainment issue will be specified.

9. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1mV/m or greater strength, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

10. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communication Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether Joy is financially qualified to construct and operate the proposed station.

2. To determine whether Peterson has the financial ability to pay legal fees incident to a hearing, and whether, in light of the evidence adduced, the applicant is financially qualified.

3. To determine whether Peterson interviewed agricultural leaders in connection with its ascertainment effort.

4. To determine which of the proposals would, on a comparative basis, better serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the applications should be granted.

12. It is further ordered, That the petition to specify issues filed by Peterson is denied.

13. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-36016 Filed 11-21-79; 8:45 am]

BILLING CODE 6712-01-M

[PR Docket No. 79-302]

Bruce Dale Sommers; Designation Order; Designating Application for Hearing on Stated Issues

In the matter of Application of Bruce Dale Sommers, 3030 Summit, Kansas City, MO. 64108, PR Docket No. 79-302, For Amateur Radio Station License and Technician Class Amateur Radio Operator License.

Adopted: November 6, 1979.

Released: November 15, 1979.

The Chief, Private Radio Bureau, has under consideration the application of

Bruce Dale Sommers, dated June 26, 1979, for an Amateur radio station license and a Technician Class Amateur radio operator license.

1. Information before the Commission indicates that in or around April of 1978, Sommers offered to pay $200 to Mr. Richard A. Hinkel, an Amateur radio licensee, if Hinkel would take Commission Amateur radio examinations in his (Sommers') name. Hinkel declined Sommers' offer and refused to take the examinations for Sommers.

2. On May 1, 1979, Sommers appeared at the Commission's District Office located in Kansas City, Missouri. He took Commission examinations for an Amateur radio station license and a Technician Class Amateur radio operator license. He passed the morse code examination (Element 1(A)) required by the Commission for these licenses, but he failed the required written examinations (Elements 2 and 3).

3. On June 12, 1979, Sommers again failed the required written examinations. On June 26, 1979, Commission personnel at the Kansas City District Office waived § 97.33 of the Commission's rules,[1] and permitted Sommers to be re-examined. He passed the written examinations at that time and submitted his application.

4. On July 17, 1979, Sommers' application was granted, and he was issued an Amateur radio station license (N0BDX) and a Technician Class Amateur radio operator license.[2] [3]

5. By letter dated August 14, 1979, the Commission informed Sommers that the grant of his application had been set aside, pursuant to § 1.113(a) of the Commission's rules, and that his application had reverted to pending status. This Commission action was taken in light of the conduct discussed in this order.

6. Information before the Commission indicates that after Sommers failed the written examinations on June 12, 1979, he attempted to persuade Commission personnel at the Kansas City District Office to waive Rule 97.33 and re-examine him orally at that time. In making this request, it appears that Sommers falsely represented that he had formerly held an Amateur radio station license with call sign WB8PCO, which had expired in October, 1977.

7. Information before the Commission also indicates that Sommers operated an unlicensed Amateur radio station for some four months prior to the grant of his application on July 17, 1979. This unlicensed radio operation was in apparent willful and repeated violation of Section 301 of the Communications Act of 1934, as amended. It also appears that Sommers identified his unlicensed radio transmissions with false Commission call signs (WB8PCO and W8SLR).

8. The Commission's information also indicates that, on July 19, 1979, Sommers operated his licensed Amateur radio station (N0BDX) in willful violation of § 97.84(a) (station identification requirements) and 97.121 (transmission of a false call sign (W8SLR)) of the Commission's rules.

9. Section 309(e) of the Communications Act of 1934, as amended, requires the Commission to designate an application for hearing when it cannot find that a grant of the application would serve the public interest, convenience and necessity. Sommers' apparent offer of money in an attempt to fraudulently obtain an Amateur radio license, and his apparent unlicensed radio operation, misrepresentations, and rule violations, described above, preclude the Commission from determining that a grant of his application would be in the public interest.

10. Accordingly, pursuant to Section 309(e) of the Communications Act and § 1.973 of the Commission's rules, it is ordered, that Sommers' application for an Amateur radio station license and Technician Class Amateur radio operator license is designated for hearing upon the following issues:

(a) To determine whether Sommers offered money to Mr. Richard A. Hinkel, in or around April of 1978, in an attempt to fraudulently obtain an Amateur radio license;

(b) To determine whether Sommers operated an unlicensed Amateur radio station prior to July 17, 1979, in willful and/or repeated violation of Section 301 of the Communications Act of 1934, as amended;

(c) To determine whether Sommers operated his licensed Amateur radio station (N0BDX) in willful violation of §§ 97.84(a) and 97.121 of the Commission's rules on July 19, 1979;

(d) To determine whether Sommers misrepresented to the Commission that he had formerly held an Amateur radio station license (WB8PCO);

(e) To determine, in light of the evidence adduced under issues (a), (b), (c), and (d), above, whether Bruce Dale Sommers possesses the requisite qualifications to be a licensee of the Commission; and

(f) To determine, in light of the resolution of issues (a) through (e), above, whether the subject application should be granted or denied.

11. It is further ordered, pursuant to § 1.221(c) of the Commission's rules, that if Sommers wants a hearing on this matter he must file within 20 days a written notice, stating that he will appear and present evidence in this matter. If he fails to file such notice, his application will be dismissed with prejudice.[4] If a hearing is requested, the time, place, and Presiding Judge will be specified by subsequent Order.

12. It is further ordered, that copies of this Order shall be sent by Certified Mail—Return Receipt Requested, and by Regular Mail, to Sommers at his address as shown in the caption.

Chief, Private Radio Bureau.

Raymond A. Kowalski,

Acting Chief, Compliance Division.

[FR Doc. 79-36017 Filed 11-21-79; 8:45 am]

BILLING CODE 6712-01-M

[1] Section 97.33 of the rules provides that: "An applicant who fails an examination element required for an amateur radio operator license shall not apply to be examined for the same or higher examination element within thirty days of the date the examination element was failed."

[2] Sommers omitted his first name (Bruce) on his original application. On July 26, 1979, Sommers submitted a second application, to modify his license to reflect his correct full name (Bruce Dale Sommers). That change is incorporated herein.

[3] The license was mailed to Sommers from the Washington, D.C., offices of the Commission on July 20, 1979.

[4] The accompanying form should be used to reply to this Order. It should be completed and mailed to the Federal Communications Commission, Washington, D.C. 20554, in the enclosed envelope, within 20 days.

[BC Docket Nos. 79-305—79-312; File No. BP-21251]

New Continental Broadcasting Co. et al.; Memorandum Opinion and Order; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: November 7, 1979.

Released: November 15, 1979.

In re Applications of: The New Continental Broadcasting Company, Miami, Florida, BC Docket No. 79-305, File No. BP-21251; Central Broadcasting, Inc., Miami, Florida, BC Docket No. 79-306, File No. BP-780714AJ; Dadeland Broadcasting Company, Inc., Miami, Florida, BC Docket No. 79-307, File No. BP-780905AN; Women's Florida Association of Broadcasters, Inc., Miami, Florida, BC Docket No. 79-308, File No. BP-780905AO; Victor Lanz, Jose J. Arzuaga & George M. Arroyo, d/b/a Latin American Broadcasters, Miami, Florida, BC Docket No. 79-309, File No. 780906AG; Community Broadcasters, Inc., Miami, Florida, BC Docket No. 79-310, File No. BP-780906AH; Dade Communications, Inc., Miami, Florida, BC Docket No. 79-311, File No. BP-780906AI; Radio America Broadcasting, Incorporated, Miami, Florida, BC Docket No. 79-312, File No. BP-780906AJ; for construction permit for new AM

Broadcast Station (990 kHz, 5kW, DA–1,U).

1. The Commission by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above mutually exclusive applications for the deleted facilities of Station WFAB, Miami, Florida.

2. All of the applicants specify the site and facilities used by Station WFAB. The New Continental Broadcasting Company has agreed to purchase this land and equipment f.om the former licensee, with monthly payments to begin in February of 1980. On the assumption, reasonable we believe, that a construction permit will not have been granted by this date, New Continental has provided in its financial proposal for an entire year of payments. We think this a prudent course under the circumstances,[1] both for New Continental and, should it not prevail in this proceeding, for the successful applicant who would presumably acquiring the property from it.[2] See, *The New Continental Broadcasting Company*, FCC 79–383, 45 RR 2d 1632 (1979). Hence, to the extent that five of the applicants (Dadeland Broadcasting Company, Inc., Latin American Broadcasters, Community Broadcasters, Inc., Dade Communications, Inc. and Radio America Broadcasting, Inc.) lack sufficient funds to meet a year's contractual obligations, we will specify financial issues against them.

3. In conducting interviews with community leaders, Latin American Broadcasters has focused exclusively upon Miami's Puerto Rican population, a concentration which is not compatible with its obligation to survey the entire community of license. A limited ascertainment issue will thus be specified. A limited issue will also be directed to the survey of Women's Florida Association of Broadcasters, Inc., which omits interviews with identified leaders of the black community. Given the size of Miami's black population—22.7% according to the applicant's demographic showing—this omission precludes a finding of substantial compliance with our *Primer.*[3]

4. Neither Women's Florida Association of Broadcasters, Inc. nor Latin American Broadcasters has given local notice of the filing of the application as required by § 73.3580 of our rules. And, in failing to include in its public notice the name of its 97.33% stockholder, Dade Communications, Inc. has so deviated from the requirements of this Section as to require a specific inquiry into its compliance. Appropriate issues will accordingly be specified.

5. Except as indicated above, the applicants are qualified to construct and operate as proposed. In view of the foregoing, however, and in light of the fact that the proposals are mutually exclusive, the applications must be designated for hearing.

6. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to the following applicants the source and availability of funds to meet land and equipment payments over a one-year period, and, in light thereof, whether the applicants are financially qualified:

a. Dadeland Broadcasting Company, Inc.

b. Latin American Broadcasters

c. Community Broadcasters, Inc.

d. Dade Communications, Inc.

e. Radio America Broadcasting, Incorporated

2. To determine whether Latin American Broadcasters adequately surveyed leaders outside of the Puerto Rican population of its proposed community of license.

3. To determine whether Women's Florida Association of Broadcasters, Inc. interviewed leaders of the black community.

4. To determine whether the following applicants complied with the Commission's public notice requirements, and, if not, the effect thereof on the applicants' basic and/or comparative qualifications to be Commission licensees:

a. Women's Florida Association of Broadcasters, Inc.

b. Latin American Broadcasters

c. Dade Communications, Inc.

5. To determine which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine in light of the evidence adduced pursuant to the foregoing issues which of the applications should be granted.

7. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

8. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79–36018 Filed 11–21–79; 8:45 am]

BILLING CODE 6712–01–M

[BC Docket Nos. 79–297, 79–298; BPCT 781005KF, BPCT 790130LC]

Seaford Television Co. and URC Management Services Corp.; Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: November 2, 1979.

Released: November 6, 1979.

In re applications of John R. Powley and Sandra B. Powley d.b.a. Seaford Television Company, Seaford, Delaware, BC Docket No. 79–297, BPCT 781005KF; URC Management Services Corporation, Seaford, Delaware, BC Docket No. 79–298, BPCT 790130LC, for construction permit for a new television broadcast station.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications, filed by Seaford Television Company (STC) [1] and URC Management Services Corp. (URC) for a new commercial television station on Channel 38, Seaford, Delaware. Also under consideration is a "Joint Petition to Intervene" filed by the

[1] Under ordinary circumstances applicants' contractual obligations do not begin until a grant is made. We require in such cases that an ability to meet three months' payments be established. *Financial Qualifications Standards for Aural Broadcast Applicants*, 69 FCC 2d 407, 43 RR 2d 1101 (1978).

[2] Four of the five applicants' financial proposals are based on the terms of a lease agreement between New Continental and the former Station WFAB licensee. This agreement has been superseded by the sales contract, however, and can no longer appropriately be relied upon. The fifth financial proposal appears to reflect the sales agreement but calls for only three months of payments.

[3] *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971).

[1] This application was originally filed by John R. Powley. Subsequently, John Powley and his wife, Sandra B. Powley, formed a partnership doing business as Seaford Television Company with John Powley as 51% partner.

Citizens Committee for the Expansion of Commercial Television to the State of Delaware, the Delaware Citizens Committee and the City of Seaford, an informal objection to the STC application filed by Henry de Sassure Flood; and associated filings.

2. Section 73.613 of the Commission's rules requires the main studio of a television station to be located within the community of license or the applicant must show good cuase for an alternate location. STC proposes to locate its studio at its transmitter site which is outside Seaford, and makes no further explanation for this proposal. Consequently, compliance with § 73.613 cannot be determined, and an issue will be specified.

3. Analysis of the financial data submitted by STC reveals that $293,565 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment payment	$137,500
Land	6,000
Building remodeling	54,000
Miscellaneous	23,000
Operating costs (three months)	73,065

STC has not submitted a balance sheet for the partnership, rather only the balance sheet of John Powley, one partner. That balance sheet shows:

Net liquid assets	$60,679
Net loan	88,250
Total Funds Available	$148,929

Presumably STC plans to construct and operate with these funds which, as shown above, are insufficient to meet its requirements. Although Powley may be credited with $60,679 in net liquid assets, the application does not indicate that he will make these assets available to the partnership and, if so, upon what terms. Moreover, the bank loan commitment letter expired September 14, 1979. Even if the Commission were to credit STC with all Powley's assets and loan proceeds, the partnership would still require an additional $144,636. Accordingly, an issue will be specified to inquire into STC's ability to obtain the $293,565, it requires.

4. John Powley, partner in STC, owns and operates WHGM–FM in Bellwood, Pennsylvania. Commission action on WHGM's application for renewal of its license has been deferred since August 1, 1978. In a composite week of programming, WGHM failed to meet its promised levels of public service announcement, public affairs and news programs, and no justification for this discrepancy was submitted. Consequently, it cannot be determined that STC can be relied upon to effectuate its programming as proposed in the instant application, and an appropriate issue will be specified.

5. STC has submitted predicted distance in miles to Grade B Contour of 37 miles, but the Commission's staff calculates this distance at approximately 30 miles. The URC predicted distance to Grade B Contour is 42 miles. Although the area disparity between the applicants is greater using the staff's figures, there has been no showing that there is a significant population within the area potentially unserved. *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393, 398–9. *See Radio Telephone Co. of Gainsville*, 46 FCC 2d 827 (1974); *WWKY, Inc.*, 47 FCC 2d 277 (1974). Consequently, no comparative coverage issue will be specified at this time.

6. STC proposes a tower height of 317 feet above ground level. § 17.7 of the Commission's Rules requires that such a proposal be submitted to the Federal Aviation Administration for clearance. STC has not done so and, consequently, an air safety issue will be specified.

7. Analysis of the financial data submitted by URC reveals that $1,827,750 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$1,383,750
Land	89,000
Building remodeling	15,000
Miscellaneous	195,000
Operating Costs (three months)	145,000

URC relies upon a $3,000,000 loan from its parent company, Human Services Group, Inc. (Human), to construct its facility. Since both the URC and Human balance sheets are outdated (more than 90 days prior to URC's filing date), it cannot be determined whether URC will have the $1,827,750 it requires, and a limited financial issue will be specified.

8. The Delaware Citizens Committee, the City of Seaford, Delaware, and the Citizens Committee for the Expansion of Commercial Television to the State of Delaware have filed a "Joint Petition To Intervene" pursuant to § 1.223 of the Commission's rules.[2] This petition is premature as submitted and thus will be dismissed without prejudice to its resubmission at the appropriate time.

9. The informal objection filed by Mr. Flood in his affidavit is predicated on conversations with John Powley. Mr. Flood alleges that Powley would not properly serve the public interest in Seaford because he: (a) Sought only minimal information about Seaford; (b) expressed interest in operating the station for a few years and moving on; (c) would provide only minimal service coverage; (d) would provide minimal news and public issue coverage; and, (e) was not interested in seeking local financial assistance. While the public interest is a basic criterion for Commission action, it is well settled that the Commission may consider only specific allegations of fact directed against an applicant. Section 309(d)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 309(d)(1). Mr. Flood's allegations are vague and based only upon opinion and speculation. Accordingly, the informal objection will be denied.

10. Except as indicated in the issues specified below, the Commission finds Seaford Television Company and URC Management Services Corp. legally, financially, technically and otherwise qualified to operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of these applications will serve the public interest, convenience and necessity. The applications must, therefore, be designated for hearing in a consolidated proceeding on the issues set out below.

11. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the proposal of Seaford Television Company is in compliance with § 73.613 of the Commission's rules with respect to location of the main studio, and if not, if good cause exists for the proposed location.

2. To determine with respect to Seaford Television Company:

(a) Whether the partnership has liquid assets in excess of current liabilities of at least $293,565; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine with respect to Seaford Television Company, whether STC can be relied upon to program in accordance with the promises made in its Seaford application; and, the effect of this determination on STC's basic and comparative qualifications.

4. To determine whether the tower height and location proposed by STC would constitute a hazard to air navigation.

5. To determine with respect to URC Management Service Corporation:

(a) The availability of the proposed loan from Human Services Group, Inc.; and

[2] Section 1.223 of the Commission's rules pertains to hearing proceedings and thus is not applicable until after the Order designating issues for hearing is issued.

(b) Whether URC has liquid assets in excess of current liabilities of at least $1,827,750; and

(c) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

6. To determine which of the proposals would, on a comparative basis, better serve the public interest.

7. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

12. It is further ordered, that the "Joint Petition to Intervene" filed by Citizens Committee for the Expansion of Commercial Television to the State of Delaware, the Delaware Citizens Committee and the City of Seaford, is dismissed without prejudice.

13. It is further ordered, that the informal objection filed by Henry de Sassure Flood is denied.

14. It is further ordered, that the Federal Aviation Administration is made a party respondent in respect to Issue 4, above.

15. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and the party respondent shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

16. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 3.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-36057 Filed 11-21-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Advisory Council; Amended Meeting

November 9, 1979.

Reference **Federal Register** dated October 30, 1979, Vol. 44, No. 211, page 62368, Notice of Meeting for the Federal Savings and Loan Advisory Council on Monday, November 19, 1979.

The second item, after the General Discussion, "Title Examinations and Insurance" at 9:00 a.m., Monday, November 19 is withdrawn from the Agenda.

Jay Janis,

Chairman.

[FR Doc. 79-36072 Filed 11-21-79; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-67]

Haven Federal Savings & Loan Association, Winter Haven, Fla.; Post Approval Amendment of Conversion Application; (Notice of Final Action)

November 19, 1979.

Notice is hereby given that on November 8, 1979, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 79-549, approved the amendment to the application of Haven Federal Savings and Loan Association, Winter Haven, Florida, for permission to convert to the stock form of organization. The application to convert was approved on August 16, 1979, by Resolution No. 79-440. Copies of the application and the amendment are available for inspection at the Secretariat of said Corporation, 1700 G Street NW., Washington, D.C. 20552 and the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, 260 Peachtree Street NW., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-36116 Filed 11-21-79; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-66]

Naples Federal Savings & Loan Association, Naples, Fla.; Approval of Conversion; Notice of Final Action

November 19, 1979.

Notice is hereby given that on November 8, 1979, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation by Resolution No. 79-548, approved the application of Naples Federal Savings and Loan Association, Naples, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, 260 Peachtree Street, N.W., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-36117 Filed 11-21-79; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 3, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 5200-35.

Filing party: David C. Nolan, Esq., Ralph M. Pais, Esq., Graham & James, One Maritime Plaza, San Francisco, California 94111.

Summary: Agreement No. 5200-35, among the member lines of the Pacific Coast European Conference, would amend the basic agreement to revise and extend the independent action provisions and the procedures governing the participation and voting of joint services.

Dated: November 16, 1979.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-36113 Filed 11-21-79; 8:45 am]

BILLING CODE 6730-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were accepted by the Regulatory Reports Review Staff, GAO, on November 15, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipts.

The notice includes the title of each request received; the names of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed SEC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before December 11, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Securities and Exchange Commission

The SEC requests an extension without change clearance of voluntary Form R-4a, Private Noninsured Pension Funds. The form collects data quartely on common stock transactions and statement of assets. Respondents are corporations, unions, multi-employer groups as sponsors of pension plans, and banks as managers of pension plans. The SEC estimates that respondents will number approximately 400 and that reporting time will average 3 hours per quarterly report.

The SEC requests an extension without change clearance of voluntary Form R-5, Property and Liability Insurance Companies. The form collects data quarterly on common stock transactions and statement of assets. Respondents are property and liability insurance companies. The SEC estimates that respondents will number approximately 120 and that reporting time will average 3 hours per quarterly report.

The SEC requests an extension without change clearance of voluntary Annual Asset Letter and attached Reporting Form. The form collects data on total assets. Respondents are registered investment companies. The SEC estimates that respondents will number approximately 1,507 and that reporting time will average 5 minutes per report.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79-36062 Filed 11-21-79; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 79F-0401]

Thomas J. Lipton, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Thomas J. Lipton, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of methylene chloride as a solvent for decaffeinating tea.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 0A3481) has been filed by Thomas J. Lipton, Inc., 800 Sylvan Ave., Englewood Cliffs, NJ 07632, proposing that the food additive regulations be amended to provide for the safe use of methylene chloride as a solvent for decaffeinating tea.

The potential environmental impact of this action is being reviewed. If this petition results in a regulation, and the agency concludes that an environmental impact statement is not required, the notice of availability of the environmental impact analysis report, statement of exemption, environmental assessment report as applicable, will be published in the Federal Register regulation, as permitted by 21 CFR 25.25(b).

Dated: November 13, 1979.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 79-35838 Filed 11-21-79; 8:45 am]

BILLING CODE 4110-03-M

Office of Education

National Advisory Council on Bilingual Education; Meeting

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Bilingual Education. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Committee meetings: December 9, 1979, 2:00 p.m. Full Council meeting: December 10 and 11, 1979, 9:00 a.m. to 5:00 p.m.

ADDRESS: December 9, 1979, Committee meetings will be held at the Four Seasons Plaza Nacional, San Antonio, Texas. December 10 and 11, 1979, Full Council meeting will be held at the Southwest Intergovernmental Training Institute, Hemisphere Plaza, 643 East Durango Street, San Antonio, Texas 78206. For further information contact: Gloria Becerra, Office of Bilingual Education, Reporters Building, Room 421, Office of Education, 400 Maryland Avenue, S.W., Washington, DC 20202, (202-447-9227)

The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 880b-11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

The meetings on December 10 and 11, 1979 will be open to the public beginning at 9:00 a.m.

December 10, 1979: A meeting of the Full Council on the following subjects is scheduled from 9:00 a.m. until 5:00 p.m. The proposed agenda includes the following:

Business Meeting

a. Call to Order
b. Approval of Minutes
c. Chairperson's Report
Management Institute
Presidential Commission
Dissertation Award
Correspondence

d. Committee Reports
Executive Committee
Program Resource and Coordination Committee
Research Plan
Community Involvement and Outreach Committee
Program Administration Committee
Final Rules and Regulations
Continuing Students in Programs not Refunded
Legislative Advisory and Policy Committee
Presidential Status
e. Ad Hoc Reports
Dissertation Committee
f. OBE Director's Report
Rules and Regulations
Department of Education
Materials Development Procedures
1980 Census

December 11, 1979: The proposed agenda includes the following:

g. Old Business
Action Items
h. New Business
Action Items
Agenda
i. Public Participation
j. Adjournment

Records will be kept of all Council proceedings and shall be available for public inspection after approval, by the Full Council, of said records has been obtained. These records will be available in Room 421, Reporters Building, 300 7th Street, S.W., Washington, DC. Written requests for such records should be sent to 400 Maryland Avenue, S.W., Reporters Building, Room 421, Washington, DC 20202.

In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Signed at Washington, D.C. on November 19, 1979.

Josue M. Gonzalez,

Director, Office of Bilingual Education.

[FR Doc. 79-35975 Filed 11-21-79; 8:45 am]

BILLING CODE: 4110-89-M

Commission on the Review of the Federal Impact Aid Program; Meeting

AGENCY: Commission on the Review of the Federal Impact Aid Program.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the second meeting of the Commission on the Review of the Federal Impact Aid Program, the members of which were appointed by the President on August 15, 1979. The meeting will be open to the general public and all interested persons are invited to attend. Notice of this meeting is given in accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 1).

DATE: December 14, 1979. The Commission will meet at 9:00 a.m. and continue until business is completed.

ADDRESS: BOAC Room, Hyatt Regency O'Hare, 9300 Bryn Mawr Road, Chicago, Illinois 60666.

FOR FURTHER INFORMATION CONTACT: Richard Dallas Smith, Executive Director, Commission on the Review of the Federal Aid Impact Program, Suite 710, 1325 G Street, N.W., Washington, D.C. 20005. (202) 724-0221.

AUTHORITY AND FUNCTION: The Commission on the Review of the Federal Impact Aid Program is established under section 1015 of the Education Amendments of 1978 (Public Law 95-561). The Commission is to conduct a review and evaluation of the administration and operation of the Impact Aid Program, authorized under the Act of September 30, 1950 (Public Law 874, 81st Congress), and report its recommendations on that program to the President and the Congress not later than December 1, 1980. Such recommendations are to include proposed legislation to accomplish the recommendations. Public Law 874 requires that the Commissioner make payments to local educational agencies in accordance with a formula designed to compensate such agencies for the financial burden carried by them by reason of Federal activities—the loss of revenue because of Federal ownership of real property and the provision of educational services for federally connected children—or by reason of sudden or substantial increases in school attendance resulting from Federal activities.

TENTATIVE AGENDA: The Commission members will consider a Plan of Study for the Commission during its evaluation and review of the Federal Impact Aid Program.

RECORDS: Records of all proceedings of the Commission will be kept in accordance with law and will be available for inspection by the public at the offices of the Commission, located at Suite 710, 1325 G Street, N.W., Washington, D.C. 20005.

Signed at Washington, D.C. on the 15th day of November, 1979.

Richard Dallas Smith,

Executive Director, Commission on the Review of the Federal Impact Aid Program.

[FR Doc. 79-36063 Filed 11-21-79; 8:45 am]

BILLING CODE 4110-02-M

INTERAGENCY REGULATORY LIAISON GROUP

Epidemiology Work Group (EWG); Availability of Draft Guidelines

AGENCY: Interagency Regulatory Liaison Group (IRLG), representing the Consumer Product Safety Commission (CPSC); the Environmental Protection Agency (EPA); the Food and Drug Administration, Department of Health, Education and Welfare (FDA); the Food Safety and Quality Service, Department of Agriculture (FSQS); and the Occupational Safety and Health Administration, Department of Labor (OSHA).

ACTION: Notice of availability of draft guidelines.

SUMMARY: A package containing the draft Guidelines on Documentation for Epidemiologic Studies is available for review and comment. The guidelines were developed by the Epidemiology Work Group (EWG) of the IRLG, for use when reporting the results of epidemiologic research to IRLG member agencies.

REQUESTS FOR GUIDELINES: Single copies of the guidelines may be obtained by writing to: Industry Assistance Office (TS-799), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, or by calling (800) 424-8065 (toll-free) or (202) 554-1404.

DATE: In order to give interested persons an opportunity to express their views on the validity and appropriateness of the documentation described for epidemiologic studies, written comments on these guidelines may be submitted by March 1, 1980. When completed, the final version will incorporate these comments where appropriate and will be made available to the public.

ADDRESS: Comments should be addressed to Dr. Roberts D. Verhalen, Deputy Associate Executive Director for Epidemiology, U.S. Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be examined in the IRLG Office, Room 509, 1111 18th Street, N.W., Washington, D.C., 9:00 a.m. to 4:00 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The IRLG was established for the purpose of improving public health through sharing of information, avoiding duplication of effort, and developing consistent regulatory policy.

The IRLG established the Epidemiology Work Group (EWG) partly for the purpose of more readily facilitating the objective conduct and

evaluation of non-experimental epidemiologic studies which may be used for regulatory decision-making. To help achieve this objective, the EWG has developed guidelines for such epidemiologic studies. While it is not intended that a standard model be developed against which epidemiologic would mold their research, the EWG believes it is necessary to develop minimal criteria by which submitted studies can be objectively evaluated.

The EWG subsequently reviewed studies, obtained outside guidance and coordinated its work with the agencies and others who might also be interested in guidelines development.

Draft guidelines on documentation for epidemiologic studies were prepared by the EWG to satisfy the needs of the IRLG agencies. The guidelines emphasize the type and extent of information considered important by the EWG for the objective evaluation and interpretation of epidemiologic studies. In addition, they are intended to provide a framework for evaluation even when all elements of the guidelines have been met. It is intended that they be sufficiently flexible to permit innovative approaches to the study of human disease or injury under changing circumstances.

The EWG is releasing these guidelines in order to obtain public comment before it prepares final drafts of the guidelines for submission to the member agencies for their consideration. These draft guidelines are not intended to have the force of law. The use agencies make of the guidelines will be determined by each agency after receiving final draft guidelines prepared by the IRLG Work Group.

Early drafts of the IRLG guidelines were circulated through each agency and to a number of scientists and administrators for review; and comments from that review are included in these draft guidelines. The EWG acknowledges the contributions from each of these information sources and takes this opportunity to express its appreciation to them for helping develop these draft guidelines.

Dated: November 14, 1979.

Edwin H. Clark, II,

Chairman, Interagency Regulatory Liaison Group

[FR Doc. 79-35949 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-25-M

Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks; Comment Extension

AGENCY: Interagency Regulatory Liaison Group (IRLG), representing the Consumer Product Safety Commission (CPSC); the Environmental Protection Agency (EPA); the Food and Drug Administration, Department of Health, Education and Welfare (FDA); the Food Safety and Quality Service, Department of Agriculture (FSQS); and the Occupational Safety and Health Administration, Department of Labor (OSHA).

ACTION: Notice of Extension of Public Comment Period for "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks."

SUMMARY: This notice extends the public comment period for the IRLG report entitled "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks" from the previously announced closing on September 30, 1979, to November 30, 1979. This report was published on July 6, 1979, in 44 FR 39358 ff.

DATE: Written comments are requested to be submitted before close of business, November 30, 1979.

ADDRESS: Comments should be sent to IRLG, Room 500, 1111 18th Street, N.W., Washington, D.C. 20207. Comments may be examined in Room 2903B of the Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., between 9:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances (TS-799), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; telephone toll-free 800-424-9065 or, in Washington, 554-1404.

SUPPLEMENTARY INFORMATION: This report has also formed the basis of part of the Regulatory Council's "Statement on Regulation of Chemical Carcinogens", published in the **Federal Register** on October 17, 1979, and was incorporated as Annex B to that statement. (See 44 FR 60038 ff and Annex B, page 60044 ff.) The Regulatory Council has asked that comments upon its statement be received by the Council by November 15, 1979.

Dated: November 14, 1979.

Edwin H. Clark, II,

Chairman, Interagency Regulatory Liasion Group.

[FR Doc. 79-35948 Filed 11-21-79; 8:45 am]

BILLING CODE 6560-25-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 38814, 38817 and 38818]

New Mexico; Applications

November 14, 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 four 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 22 S., R. 26 E.,
Sec. 17, S½NE¼ and SE¼NW¼.
T. 21 S., R. 27 E.,
Sec. 16, NE¼SE¼.
T. 21 S., R. 36 E.,
Sec. 18, NW¼SE¼.

These pipelines will convey natural gas across 0.689 of a mile of public lands in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Stella V. Gonzales,

Chief, Lands Section.

[FR Doc. 79-36110 Filed 11-21-79; 8:45 am]

BILLING CODE 4310-84-M

[U-32705]

Order Providing for Opening of Lands in Utah

November 9, 1979.

By virtue of the authority contained in Section 24 of the Act of June 10, 1920 (41 Stat. 1075) as amended 16 U.S.C. 818 (1970) and pursuant to the determination of the Federal Energy Regulatory Commission in DA 204 Utah January 28, 1977, it is ordered as follows:

1. In DA 204 Utah, The Federal Energy Regulatory Commission determined that the following described power project No. 665 (U-43000, U-43021) is no longer needed for power purposes and is vacated in its entirety. Under the authority delegated by the Bureau of Land Management Order No. 701 dated July 23, 1964 (29 FR 10526), as amended, the segregative effect of said withdrawal is hereby lifted.

Salt Lake Meridian, Utah

T. 10 S., R. 1 E.,
Sec. 13, SW¼NE¼, SE¼NW¼, N½SE¼, SW¼SE¼.
T. 10 S., R. 2 E.,
Sec. 18, lot 9.
Sec. 19, lots 1, 2, 5, 6, E½NW¼, SE¼SW¼, SW¼SE¼.
Sec. 30, NW¼NE¼.

The area aggregates approximately 620 acres in Utah County, Utah.

2. All of the above described lands are within the Uinta National Forest and some of the lands have been withdrawn for reclamation purposes. Any use of these lands will be subject to the provision of these existing withdrawals.

Gary J. Wicks,

State Director.

[FR Doc. 79-36093 Filed 11-21-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38820, 38821, 38844 and 38846]

New Mexico; Applications

November 13, 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), Gas Company of New Mexico has applied for two 2-inch and two 4-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 29 N., R. 10 W.,
Sec. 14, lots 7, 10, 11 and 12,
Sec. 31, SW¼NE¼,
Sec. 35, E½SW¼.
T. 30 N., R. 10 W.
Sec. 34, lot 5,
Sec. 35, lots 12 and 13.

These pipelines will convey natural gas across 1.141 miles of public lands 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 applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Stella V. Gonzales,

Chief Lands Section.

[FR Doc. 79-36111 Filed 11-21-79; 8:45 am]

BILLING CODE 4310-84-M

[M 45173 (ND)]

North Dakota; Application

November 15, 1979.

Notice is hereby given that, pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Montana-Dakota Utilities Co. of Bismarck, North Dakota, has applied for a 4-inch natural gas pipeline right-of-way across the following described public lands:

Fifth Principal Meridian, North Dakota

T. 130 N., R. 106 W.,
Sec. 32, N½SW¼.

This pipeline will convey natural gas from the J. C. Paine-Chapman No. 1 gas well to an existing Montana-Dakota Utilities pipeline across 0.276 of a mile of public land in Bowman County, North Dakota.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1229, Pulver Hall, Dickinson, North Dakota 58601.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operation.

[FR Doc. 79-36094 Filed 11-21-79; 8:45 am]

BILLING CODE 4310-84-M

[Coal Lease Application U-37045]

Land in Emery County, Utah; Public Hearing and Availability of Environmental Assessment

November 16, 1979.

The Department of the Interior, Bureau of Land Management, Utah State Office, Moab District, hereby gives notice that a public hearing will be held on December 12, 1979 at 7:00 p.m. in the large court room, Carbon County Courthouse, Price, Utah. Application has been made to the United States that it offer for lease certain coal resources in the public lands hereinafter described. The purpose of the hearing is to obtain public comments on the Environmental Assessment prepared and on the following items:

(1) The method of mining to be employed to obtain maximum economic recovery of the coal; (2) the impact that mining the coal in the proposed leasehold may have on the area, including but not limited to impacts on the environment; and (3) methods of determining the fair market value of the coal to be offered. Written requests to testify orally at the December 12 public hearing should be received at the Price River Area Office, PO Drawer AB, Price, Utah 84501, prior to the close of business at 4:30 p.m. on December 11, 1979. People who indicate they wish to testify when they check in at the hearing room may have an opportunity to testify if time is available after the listed witnesses have been heard.

Both oral and written comments will be received at the public hearings, but speakers will be limited to a maximum of ten minutes each depending on the number of persons desiring to comment. The time limitation will be strictly enforced, but the complete text of prepared speeches may be filed with the presiding officer at the hearing, whether or not the speaker has been able to finish oral delivery in the allotted minutes. Written comments may also be submitted to Price River Resource Area at the above address, prior to close of business on December 11, 1979. Substantive comments, whether written or oral, will receive equal consideration prior to any lease offering.

In addition, the public is invited to submit written comments concerning the fair market value of the coal resource to the Bureau of Land Management and the U.S. Geological Survey. Public comments will be utilized in establishing fair market value for the coal resources in the described lands.

Comments should address specific factors related to fair market value including, but not limited to: the quantity and quality of the coal resource, the price that the mined coal would bring in the market place, the cost of producing the coal, the probable timing and rate of production, the interest rate at which anticipated income streams would be discounted, depreciation and other accounting factors, the expected rate of industry return, the value of the surface estate (if private surface), and the mining method or methods which would achieve maximum economic recovery of the coal. Documentation of similar market transactions, including location, terms, and conditions, may also be submitted at this time.

These comments will be considered in the final determination of fair market value as determined in accordance with 30 CFR 211.63 and 43 CFR 3422.1-2. Should any information submitted as comments be considered to be proprietary by the commentor, the information should be labeled as such and stated in the first page of the submission. Comments should be sent to

both the State Director, Utah, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111, and to the Regional Conservation Manager, Conservation Division, Geological Survey, Box 25046, Denver Federal Center, Denver, Colorado 80225, to arrive no later than December 10, 1979.

Application U-37045

The coal resource to be offered is to be mined underground from the Blind Canyon and Hiawatha seams in the following lands located about one mile west of the community of Wattis.

Township 15 South, Range 8 East, Salt Lake Base and Meridian:
Section 5: Lots 4, 5, 12 and NW¼SW¼—B.L.M.
Section 6: Lots 1, 2, 3, 6, 7, 9, 10, 11, 13, 14, E½SW¼SE¼—F.S.
Section 7: NE¼NE¼—FS.
Section 8: NW¼NW¼—F.S. containing 735.9 acres.

The estimated total underground reserves are 5,500,000 tons. The coal quality is as follows: Btu—11,500 to 12,290 per pound; Sulfur—.06% to 85%; Ash—6.3% to 9%; and moisture 6.5%.

The draft Environmental Assessment will be available for review in the Bureau of Land Management Moab District Office, PO Box 970, Moab, Utah 84532; the Price River Resource Area Office, 900 North 700 East, Price, Utah 84501; and Manti LaSal Forest Service Office, 350 East Main, Price, Utah 84501. Single copies are available for distribution upon request from the office at the above addresses.

A copy of the Environment Assessment, the case file and the comments submitted by the public on fair market value, except those portions identified as proprietary by the commentor and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Utah State Office, Bureau of Land Management at the above address.

S. Gene Day,

District Manager.

[FR Doc. 79-36115 Filed 11-21-79; 8:45 am]

BILLING CODE 4310-84-M

[F-35350]

Alaska; Proposed Withdrawal and Reservation of Lands

The Department of the Army, Corps of Engineers, on February 17, 1978, filed application, serial No. F-35350, for the withdrawal of the following described lands from settlement, sale, location, or entry, under all of the general land laws, including the mining laws subject to valid existing rights:

Fairbanks Meridian, Alaska

T. 1 S., R. 3 E.,
more particularly described as (protracted)
Sec. 22: E½SE¼.
Sec. 23: S½.
Sec. 24: N½SW¼, W½NW¼SE¼, S½NE¼NW¼SE¼, SE¼NW¼SE¼, NW¼SW¼SE¼, N½NE¼SW¼SE¼, SW¼NE¼SW¼SE¼, SE¼NE¼SE¼SW¼,N½NE¼SE¼SW¼, W½W½SE¼SW¼, SW¼SW¼.
Sec. 25: W½NW¼NW¼, NE¼NW¼NW¼,W½SE¼NW¼NW¼, NW¼NW¼NE¼NW¼, NW¼SW¼NW¼.
Sec. 26: N½, N½NE¼SE¼, N½SE¼NE¼SE¼, NE¼SW¼NE¼SE¼, N½NE¼NW¼SE¼, N½NW¼NW¼SE¼, SW¼NW¼NW¼SE¼, N½NE¼SW¼, W½SE¼NE¼SW¼, SW¼NE¼SW¼, NW¼SW¼, N½SW¼SW¼, NW¼SE¼SW¼, W½NE¼SE¼SW¼, SW¼SW¼SW¼, W½SE¼SW¼SW¼.
Sec. 27: E½NE¼, E½SE¼.
Sec. 34: N½NE¼NE¼, N½SE¼NE¼NE¼, SW¼SE¼NE¼NE¼, SW¼NE¼NE¼, N½NW¼SE¼NE¼.
Sec. 35: NW¼NE¼NW¼NW¼, N½NW¼NW¼NW¼, SW¼NW¼NW¼NW¼.

Containing 1,335 acres, more or less.

The applicant agency desires that the lands be withdrawn and reserved for use in conjunction with the Chena River Lakes Flood Control Project.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management on or before January 3, 1980.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513, on or before January 3, 1980. Notice of the public hearing will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the **Federal Register.** The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

Effective on the date of publication of this notice, the above-described lands shall be segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. The segregative effect of this proposed withdrawal shall continue for a period of 2 years, unless sooner terminated by action of the Secretary of the Interior. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. If the withdrawal is approved, the segregation will continue for the duration of the withdrawal.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, 701 C Street, Box 13, Anchorage, Alaska 99513.

Robert E. Sorenson,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-36074 Filed 11-21-79; 8:45 am]

BILLING CODE 4310-84-M

[AA-6983-A, AA-6983-B, and AA-6983-D]

Alaska Native Claims Selection

Corrections

In FR Doc. 79-32762 appearing at page 61262 in the issue of Wednesday, October 24, 1979, on page 61263, first column, under *T. 74 S., R., 85 E. (Partially Surveyed),* Sec. 36 should read as follows: "Sec. 36, lots 1, 2 and 3, E½E¼, SW¼NE¼, W½, W½SE¼." And under *T. 74 S., R. 86 E (Partially Surveyed),* second line under Sec. 19 should read "E½NW¼, NE¼SW¼;".

BILLING CODE 1505-01-M

Fish and Wildlife Service

Withdrawal of Notice of Intent to Prepare and Environmental Impact Statement on the Lower Apalachicola Flood Plain in Gulf, Calhoun, and Liberty Counties, Fla.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Fish and Wildlife Service had decided not to pursue this study further at this time. Therefore, the Notice of Intent Published in the November 9, 1979, Federal Register (44 FR 219) to prepare an Environmental Impact Statement on alternatives for conserving portions of the lower Apalachicola River Basin is hereby withdrawn.

DATES: Effective immediately.

ADDRESSES: Donald Hankla, Area Manager, U.S. Fish and Wildlife Service, 900 San Marco Boulevard, Jacksonville, Florida 32207, Telephone Number: (904) 791–2850.

Stephen H. Taub

Chief, Office of Environmental Coordination.

November 20, 1979.

[FR Doc. 79–38236 Filed 11–21–79; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Known Recoverable Coal Resource Area, Warrior Basin, Ala.

Pursuant to Authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (Pub. L. 94–377, August 4, 1976, as amended by Pub. L. 95–554, October 30, 1978), Federal lands within the State of Alabama have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(1) Alabama

Warrior Basin (Alabama) Known Recoverable Coal Resource Area (KRCRA); September 4, 1979; 162,400 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Regional Conservation Manager, Eastern Region, U.S. Geological Survey, Washington, D.C. 20006.

Dated: November 16, 1979.

O. M. Hackett,

[FR Doc. 79–36073 Filed 11–21–79; 8:45 am]

BILLING CODE 4310–31–M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at Room 4125, Department of the Treasury, 15th Street and Pennsylvania Avenue, Washington, D.C., on December 17, 1979 beginning at 9:30 a.m.

The purpose of the meeting is to review the November Joint Board examinations in actuarial mathematics and methodology, referred to in Title 29 U.S. Code, Sections 1242(a)(1) (B) and (C); and to make recommendations relative thereto, including the minimum acceptable pass score. A determination as required by Section 10(d) of the Federal Advisory Committee Act (Pub. L 92–463) has been made that this meeting is for the purpose of considering matters falling within the exemption to public disclosure set forth in Title 5, U.S. Code, Section 552(b)(5) and that the public interest requires such meeting be closed to public participation.

Dated: November 19, 1979.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 79–36019 Filed 11–21–79; 8:45 am]

BILLING CODE: 4810–25–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States V. Continental Group, Inc., et al.; Proposed Consent Judgment, Stipulation, and Competitive Impact Statement as to Continental Group, Inc., American Bag & Paper Corp. and Harley Corp.

Notice is hereby given pursuant to the Antitrust Procedrues and Penalties Act, 15 U.S.C. Section 16(b) through (h), that a proposed Consent Judgment, Stipulation and Competitive Impact Statement as to Continental Group, Inc., American Bag & Paper Corp. and Harley Corporation (hereinafter referred to as "Consenting Defendants") as set out below have been filed with the United States District Court for the Eastern District of Pennsylvania in *United States of America* v. *Continental Group, Inc. et al.*, Civil Action No. 76–3377. The Complaint in this case alleged that five (5) corporations, including the consenting Defendants, engaged in a combination and conspiracy to fix prices of consumer bags in violation of Section 1 of the Sherman Act, 15 U.S.C. Section 1. The proposed Consent Judgment enjoins the consenting Defendants from directly or indirectly entering into, adhering to, maintaining, furthering, enforcing or claiming any rights under any contract, agreement, arrangement, understanding, plan, program, combination or conspiracy with any other person engaged in the production or sale of consumer bags to: (a) raise, fix, maintain or stabilize the price or other terms or conditions for the sale of consumer bags to any third person; (b) submit noncompetitive, collusive, rigged, cover or complimentary bids or quotations for the sale of consumer bags; and (c) refrain from submitting a bid or quotation for any sale of consumer bags. The proposed Judgment further enjoins the Consenting Defendants from communicating or exchanging with any other manufacturer or seller of consumer bags and information regarding specific prices of consumer bags or material from which such specific prices may be computed. The consenting Defendants are also enjoined from distributing any pricing manuals or price lists used or to be used in computing prices, terms or conditions of sale charged or to be charged for consumer bags. Each Consenting Defendant is required to establish an antitrust compliance program which must include reporting to the Department of Justice all communications relating to prices of consumer bags between its employees and representatives of other consumer bag manufacturers. Public comment is invited within the statutory 60 day time period. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to John J. Hughes, Chief, Middle Atlantic Office, Antitrust Division, Department of Justice, 3430 United States Courthouse, Philadelphia, Pennsylvania 19106.

Dated: November 13, 1979.

Joseh H. Widmar,

Director of Operations.

U.S. District Court for the Eastern District of Pennsylvania

United States of America, Plaintiff, v. *Continental Group, Inc. et al.*, Defendants.

Civil Action No. 76–3377.

Filed: November 13, 1979.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provide that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: November 13, 1979.

For the Plaintiff: John H. Shenefield, *Assistant Attorney General;* Joseph H. Widmar, Charles F. B. McAleer, John J. Hughes, *Attorneys, Department of Justice;* Walter L. Devany, *Attorney, Department of Justice, Antitrust Division, Department of Justice, 3430 United States Courthouse, Independence Mall West, 601 Market Street, Philadelphia, Pennsylvania 19106.*

For Defendant American Bag & Paper Corp.: Edward C. German, Philip A. Ryan, *LaBrum & Doak, 700 I.V.B. Building, Philadelphia, Pennsylvania 19103.*

For Defendant Harley Corporation: Benjamin M. Quigg, Jr., James J. Rodgers, *Morgan, Lewis & Bockius, 2300 The Fidelity Building, 123 South Broad Street, Philadelphia, Pennsylvania 19109; Willis B. Snell, Michael L. Denger, Robert M. Royalty, Sutherland, Asbill & Brennan, 1666 "K" Street, N.W., Washington, D.C. 20036.*

For Defendant Continental Group, Inc.: Patrick T. Ryan, William J. Lehane, *Drinker, Biddle & Reath, 1100 Philadelphia National Bank Building, Philadelphia, Pennsylvania 19107.*

U.S. District Court for the Eastern District of Pennsylvania

United States of America, Plaintiff, v. *Continental Group, Inc. et al.,* Defendants.

Civil Action No. 76–3377.

Filed: November 13, 1979.

Final Judgment as to Continental Group, Inc., American Bag & Paper Corp. and Harley Corp.

Plaintiff, United States of America, having filed its Complaint herein on October 29, 1976, and the Plaintiff and the Defendants, Continental Group, Inc., American Bag & Paper Corp. and Harley Corporation (hereinafter referred to as "consenting defendants"), by their respective attorneys, having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue, and this Court, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, having determined there is no just reason for delay in entering a Final Judgment as to all of Plaintiff's claims asserted in said Complaint against said consenting defendants and having directed the entry of such a Final Judgment;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby,

Ordered, adjudged and decreed as follows:

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against the consenting defendants under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:

(A) "Person" means any individual, partnership, corporation, firm, association or other business or legal entity;

(B) "Consumer bags" or "small bags" shall include bags which are pre-formed by a manufacturer from one or more plies of paper, and which are sometimes combined with other materials used as linings and/or coatings, and which are designed for capacities of less than twenty-five pounds. They are normally used to pre-package products which are then marketed in such bags. Consumer bags are used for packaging a variety of products including, among others, pet foods, cookies, tea, coffee, kitty litter, chemicals and agricultural products. Consumer bags also include air sickness bags.

III

This Final Judgment applies to each of the consenting defendants and to its officers, directors, agents and employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise; provided, however, that this final Judgment shall not apply to transactions or communications solely between a consenting defendant and its officers, directors, employees, agents, or to transactions or communications between or among a consenting defendant and its parent company, subsidiaries or companies more than fifty percent (50%) owned by a consenting defendant or its parent, or to activities outside the United States which do not affect the commerce of the United States.

IV

Each consenting defendant is enjoined and restrained from directly or indirectly entering into, adhering to, maintaining, furthering, enforcing or claiming any rights under any contract, agreement, arrangement, understanding, plan, program, combination or conspiracy with any other person engaged in the production or sale of consumer bags to:

(A) Raise, fix, maintain or stabilize the price or other terms or conditions for the sale of consumer bags to any third person;

(B) Submit noncompetitive, collusive, rigged, cover, or complimentary bids or quotations for the sale of consumer bags;

(C) Refrain from submitting a bid or quotation for any sale of consumer bags.

V

Each consenting defendant is enjoined and restrained from:

(A) Communicating to, requesting from or exchanging with any other manufacturer or seller of consumer bags:

(1) Any price, price change, discount or other term or condition of sale charged or quoted to any customer or potential customer for consumer bags whether communicated in the form of a specific price or in the form of information form which such specific price may be computed;

(2) Any future price, price change, discount, or other term or condition of sale to be charged or quoted to any customer or potential customer for consumer bags whether communicated in the form of a specific price or in the form of information from which such specific price may be computed;

(3) Any plan or changes or revisions in the prices at which, or the terms or conditions of sale upon which, consumer bags are sold or offered for sale; and

(4) Any formula utilized for computing costs or prices or methods or means for computing prices at which consumer bags are sold.

(B) Distributing to any manufacturer of consumer bags any pricing manual, price lists, or similar pricing material which is used, has been used or will be used in computing prices or terms or conditions of sale charged or to be charged for consumer bags.

VI

Nothing contained in this Final Judgment shall prohibit a consenting defendant's negotiations, arrangements or communications with another manufacturer or seller of consumer bags or with any agent, broker, distributor or representative of such manufacturer or seller solely in connection with *bona fide* proposed or actual purchases of consumer bags from, or sale of consumer bags to, that manufacturer or seller except as prohibited by Paragraph (B) of Section V of this Final Judgment. Each such negotiation, arrangement or communication, by an employee of a consenting defendant with a person whom a consenting defendant has reason to believe sells consumer bags, shall be reported in writing with a copy to his or her immediate superior stating the date, time and place of the negotiation, communication or arrangement, whether it was oral or written, the name and title of the other person or persons involved in the negotiation, arrangement or communication, a brief description of the transaction involved, and the price information transmitted to or from the consenting defendant; such reports shall be retained in the files of the consenting defendant and copies thereof shall be delivered to the Antitrust Division by the consenting defendant on each anniversary date of this Final Judgment along with a certification by the responsible officer of the consenting defendant stating that all reports

responsive to this proviso have been delivered to the Antitrust Division without comparison of such reports with reports filed or to be filed with the Antitrust Division by any other company.

VII

(A) Within sixty (60) days after the date of entry of this Final Judgment, each consenting defendant shall furnish a conformed copy thereof to:

(1) Each of its officers and directors;

(2) Each officer and director of a domestic subsidiary engaged in the manufacture or sale of consumer bags;

(3) Each of its employees and managing agents who is engaged in, or has responsibility for or authority over, the pricing of consumer bags; and

(4) Each employee and managing agent of a domestic subsidiary who is engaged in, or has responsibility for or authority over, the pricing of consumer bags;

and shall advise and inform each such person that violation of this Final Judgment could result in a conviction for contempt of court and imprisonment and/or fine.

(B) Within ninety (90) days after the date of entry of this Final Judgment, each consenting defendant shall file with this Court and serve upon the Plaintiff an affidavit concerning the fact and manner of compliance with Paragraph (A) of this Section.

(C) Within thirty (30) days after each such person becomes an officer, director, employee or agent of the kind described in Paragraph (A), each consenting defendant shall furnish to him or her a conformed copy of this Final Judgment together with the advice specified by said Paragraph (A).

(D) Each person receiving from any consenting defendant a conformed copy of this Final Judgment in accordance with this paragraph shall furnish such consenting defendant a receipt therefor which such consenting defendant shall retain in its files.

VIII

(A) Each consenting defendant shall advise each of its officers who has management responsibility for the manufacture or sale of consumer bags, and each of its employees and managing agents who is engaged in, or has responsibility for or authority over, the pricing of consumer bags, of its and their obligations under this Final Judgment. Each consenting defendant shall maintain a program to insure compliance with this Final Judgment, which program shall include at a minimum the following with respect to each of the persons described immediately above:

(1) The annual distribution to them of this Final Judgment;

(2) The annual submission to them of a written directive setting forth such consenting defendant's policy regarding compliance with the Sherman Act and with this Final Judgment, with such directive in include advice that such consenting defendant will make legal advice available to such persons regarding any compliance questions or problems;

(3) The imposition of a requirement that each of them sign and submit to such consenting defendant, once a year, a certificate in substantially the following form:

"The undersigned hereby (1) acknowledges receipt of a copy of the Final Judgment as to [name of appropriate consenting defendant] entered in United States v. Continental Group, Inc. et al., E.D. Pa., Civil Action No. 76–3377 and a written directive setting forth the [name of appropriate consenting defendant] policy regarding compliance with the antitrust laws and with such Final Judgment, (2) represents that the undersigned has read and understands such Final Judgment and directive, (3) acknowledges that the undersigned has been advised and understands the company's policy with respect to compliance with the Sherman Act and the Final Judgment, and (4) acknowledges that the undersigned has been advised and understands that non-compliance with the Final Judgment may also result in conviction for contempt of court and imprisonment and/or fine";

(4) The holding of one or more meetings with them to review the terms of this Final Judgment and the obligations it imposes, with such meetings to be arranged and conducted so that each of them attends at least one such meeting within a twelve (12) month period; and

(5) The imposition of a requirement that for a period of five (5) years from the entry of this Final Judgment each of them shall report, subject to any legally recognized privilege, to his or her immediate superior in writing each communication with any officer, director, representative or employee of any other company which manufactures consumer bags if such communication in any way involves prices or any of the terms or conditions of sale of consumer bags or any information from which a price or term or condition of sale may be computed. Each of them is to meet this requirement by completing a written report of each such communication, within thirty (30) days of the communication, stating the date, time and place of the communication, whether it was oral or written, the name and title of the other person or persons involved and a brief description of the topics discussed during the communication. Any person required to complete reports of communications by this Paragraph and who completes no such reports during any twelve (12) month period must certify that he or she had no communications of the type described in this Paragraph. Each such report and certification shall be retained in the files of the consenting defendant and copies thereof shall be delivered to the Antitrust Division by the consenting defendant on each anniversary date of this Final Judgment along with a certification by the responsible officer of the consenting defendant stating that all reports responsive to this proviso have been delivered to the Antitrust Division without comparison of such reports with reports filed or to be filed with the Antitrust Division by any other company. Each consenting defendant shall include in its annual sworn statement required to be filed by Paragraph VIII(B) of this Final Judgment, the name and address of each person, if any, who has failed to submit a report or certification required by this Paragraph during the twelve (12) month period preceding the filing of the consenting defendant's sworn statement and the reason given or privilege claimed by each such person for not filing a report or certification.

(B) Each consenting defendant shall file with the Court and with Plaintiff on or before each anniversary date of this Final Judgment, a sworn statement, by a responsible official designated by such consenting defendant to perform such duties, setting forth all steps it has taken during the preceding year to discharge its obligations under this Section VIII. This statement shall be accompanied by copies of all written directives issued by such consenting defendant during the prior year with respect to compliance with the antitrust laws and with this Final Judgment.

(C) Upon order of the Court, on motion by the Plaintiff for good cause shown, the designated official shall appear before the Court to give sworn testimony on the manner of compliance with the Final Judgment.

IX

Each consenting defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in the design, printing, manufacture and sale of consumer bags, that the acquiring party agree to be bound by the provisions of this Final Judgment, and that such agreement be filed with the Court.

X

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a consenting defendant made to its principal office, be permitted:

(1) Access, during office hours of such consenting defendant, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such consenting defendant, which may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such consenting defendant and without restraint or interference from it, to interview officers, employees and agents of such consenting defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a consenting defendant's principal office, such consenting defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment, as may be requested.

No information or documents obtained by the means provide in this Section X of the Final Judgment shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a consenting defendant to Plaintiff, such consenting defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such consenting defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by Plaintiff to such consenting defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which such consenting defendant is not a party.

XI

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of violations hereof.

XII

This Final Judgment will expire on the tenth anniversary of its date of entry.

XIII

Entry of this Final Judgment is in the public interest.

Dated: ——————.

United States District Judge

U.S. District Court for the Eastern District of Pennsylvania

United States of America, Plaintiff, v. *Continental Group, Inc.; American Bag & Paper Corp.; Chase Bag Company; Harley Corporation; and St. Regis Paper Company*, Defendants.

Civil Action No. 76–3377.

Filed: November 13, 1979.

Competitive Impact Statement

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment as to Continental Group, Inc., American Bag & Paper Corp. and Harley Corporation (hereinafter referred to as "Consenting Defendants") submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceedings

On October 29, 1976 the United States filed a civil antitrust Complaint alleging that five corporations combined and conspired to fix prices of consumer bags in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. The Complaint alleges that beginning at least as early as 1950 and continuing thereafter until the date of the filing of the Complaint the defendants engaged in a combination and conspiracy to raise, fix, maintain and stabilize the prices and terms and conditions of sale of consumer bags.

The Complaint seeks a judgment by the Court declaring that the Defendants engaged in an unlawful combination and conspiracy in restraint of trade in violation of the Sherman Act. It also seeks an order by the Court to enjoin and restrain the Defendants from any such activities or other activities having a similar purpose or effect in the future.

II

Description of the Practices Giving Rise to the Alleged Violations of the Antitrust Laws

As defined in the Complaint, consumer bags, also known in the trade as "small bags," are made from one or more plies of paper which may be combined with other materials used as linings and/or coatings. Consumer bags are preformed by the manufacturer in many styles and sizes according to consumer specifications. Most consumer bags have printed exterior designs as specified by the customer and are designed for capacities of less than 25 pounds. They are normally used to prepackage products which are then marketed in such bags. Consumer bags are used for packaging a variety of products including, among others, pet foods, cookies, tea, coffee, kitty litter, chemicals, and agricultural products. Consumer bags also include air sickness bags.

The Complaint further alleges that the defendant corporations accounted for aggregate sales of consumer bags of approximately $42 million in 1974. During the period of time covered by the Complaint the Defendants sold and shipped substantial quantities of consumer bags in a continuous and uninterrupted flow of interstate commerce to customers located in States other than the States in which such bags were manufactured.

The Complaint alleges that the Defendants engaged in a combination and conspiracy beginning at least as early as 1950 and continuing thereafter until the date of filing of the Complaint consisting of an agreement, understanding, and concert of action among themselves and co-conspirators, the substantial terms of which were to raise, fix, maintain, and stabilize the prices and terms and conditions of sale of consumer bags.

The Complaint further alleges that the combination and conspiracy had the following effects, among others:

1. Prices and terms and conditions of sale of consumer bags sold by the defendants and various co-conspirators have been raised, fixed, maintained and stabilized at artificial and noncompetitive levels;

2. Buyers of consumer bags have been deprived of the benefits of free and open competition in the purchase of consumer bags; and

3. Competition among the defendants and various co-conspirators in the sale of consumer bags has been restrained.

III

Explanation of the Proposed Final Judgment

The United States and the Consenting Defendants have stipulated that a Final Judgment, in the form filed with the Court, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h). The proposed Final Judgment provides that the entry of the Final Judgment does not constitute any evidence against or an admission by any party with respect to any issue of law or fact. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon the Court finding that its entry will be in the public interest.

The proposed Final Judgment contains two principal forms of relief. First, the Consenting Defendants are enjoined from repeating the behavior which characterized the consumer bag conspiracy and from certain other conduct constituting *per se* violations of Section 1 of the Sherman Act. Second, the proposed Final Judgment places affirmative burdens on the Consenting Defendants to pursue a compliance program directed toward avoiding a repetition of the consumer bag price-fixing conspiracy.

A. *Prohibited Conduct*

Section IV of the proposed Final Judgment enjoins the Consenting Defendants from directly or indirectly entering into, adhering to, maintaining, furthering, enforcing or claiming any rights under any contract, agreement, arrangement, understanding, plan, program, combination or conspiracy with any other person engaged in the production or sale of consumer bags to raise, fix, maintain, or stabilize the price or other terms or conditions of sale of consumer bags to any third person; submit non-competitive, collusive, rigged, cover or complimentary bids or quotations for the sale of consumer bags and refrain from submitting a bid or quotation for any sale of consumer bags.

Section V(A) of the proposed Final Judgment also enjoins Consenting Defendants from communicating to, requesting from or exchanging with any manufacturer or seller of consumer bags any past, present or future price, price change, discount or other terms or conditions of sale charged or quoted to any customer or potential customer whether communicated in the form of a specific price or in the form of information from which such specific price may be computed; any plan, change, or revision in the prices at which or the terms or conditions of sale upon which consumer bags are sold or offered for sale; and any formula utilized for computing cost of price or methods or means for computing price at which consumer bags are sold.

Section V(B) restrains Consenting Defendants from distributing to any manufacturer of consumer bags any pricing manual or price lists for consumer bags.

The only exception to the broad prohibitions of Section V of the Judgment is contained in Section VI and permits necessary communications in connection with *bona fide* proposed or actual purchase or sales transactions between the parties to such communications. The exception, however, does not apply to the distribution of pricing manuals or price lists for consumer bags. Section VI further provides that any such excepted communication between an employee of a Consenting Defendant and a person whom such Consenting Defendant has reason to believe sells consumer bags shall be reported in writing with a copy to his or her immediate superior stating the date, time and place of the negotiation, arrangement or

communication, whether oral or written, the identity of the other person or persons involved, a brief description of the transaction and the price information transmitted to or from Consenting Defendant. Such reports shall be retained by such Consenting Defendant and copies delivered to the Antitrust Division without comparison with reports filed or to be filed with the Antitrust Division by any other company.

B. *Consenting Defendants' Affirmative Obligations*

Sections VII and VIII require that each Consenting Defendant adopt or pursue an affirmative compliance program directed toward insuring that its employees comply with the Antitrust laws.

Section VII requires each Consenting Defendant to furnish a copy of the Judgment within sixty (60) days of the date of entry to each of its officers and directors and each of its employees who is engaged in or has responsibility for or authority over pricing of consumer bags; obtain and retain a written receipt therefor; and file with the Court and serve on the Plaintiff an affidavit as to the fact and manner of its compliance with this provision. Each Consenting Defendant is required to furnish a copy of the Final Judgment to each new officer, director and employee of the kind described above, and obtain and retain a written receipt therefor. Each Consenting Defendant is also required to advise and inform each such person that violation of this Final Judgment could result in a conviction for contempt of court and imprisonment and/or fine.

Section VIII requires each Consenting Defendant to distribute annually the Final Judgment and its written Antitrust compliance program to each employee who has management responsibility for the manufacture or sale of consumer bags or who is engaged in or has responsibility for or authority over the pricing of consumer bags and hold annual meetings with these employees to review the terms and obligation of the decree. These employees must annually certify that they have read and understand the Final Judgment and such Consenting Defendant's compliance program and that they realize their failure to comply with the Final Judgment may place them in contempt of Court. Additionally, Subsection VIII(A)(5) requires for a five (5) year period that such employees must file written reports of all communications with other consumer bag manufacturers during which any prices or terms or conditions of sale of consumer bags were discussed. Any employee who files no reports during any twelve (12) month period must certify that he has had no communications of the type required to be reported. Each Consenting Defendant must retain each such report and certification and deliver a copy thereof to the plaintiff annually.

Section VIII(B) of the proposed Judgment also requires each Consenting Defendant to file each year with the Plaintiff and the Court a sworn statement setting forth all steps it has taken during the preceding year to discharge its obligations under Section VIII of the Judgment.

Finally, under Section X of the Judgment, the Justice Department will have access, upon reasonable notice, to records and personnel of the Consenting Defendants in order to determine compliance with the Judgment.

C. *Scope of the Proposed Judgment*

(1) *Persons Bound by the Decree*

The proposed Judgment expressly provides in Section III that its provisions apply to the Consenting Defendants and to each of their officers, directors, agents and employees, subsidiaries, successors and assigns and to all other persons who receive actual notice of the terms of the Judgment except that the Final Judgment does not apply to transactions solely between a Consenting Defendant and its employees or to transactions between a Consenting Defendant, its parent company, or wholly or partially-owned subsidiaries.

In addition, Section IX of the Judgment prohibits each Consenting Defendant from selling or transferring all or substantially all of its assets used in its consumer bag business unless the acquiring party files with the Court its consent to be bound by the provisions of the Judgment.

(2) *Geographic Coverage of the Decree*

The provisions of the proposed Judgment apply to acts or transactions within the United States, its territories and possessions, but not to activities outside the United States which do not affect the commerce of the United States.

(3) *Duration of the Judgment*

Section XII provides that the Judgment will expire on the tenth anniversary of its entry. As explained above, the reporting provisions of Subsection VIII(A)(5) of the Judgment will terminate in five (5) years.

D. *Effect of the Proposed Judgment on Competition*

The prohibition terms of Sections IV and V of the Judgment are designed to insure that each Consenting Defendant will act independently in determining the prices, terms and conditions at which it will sell or offer to sell consumer bags. The affirmative obligations of Sections VI, VII and VIII are designed to insure that the employees of each Consenting Defendant are aware of their obligations under the decree in order to avoid a repetition of behavior that occurred in the consumer bag industry during the conspiracy period. Compliance with the proposed Judgment will prevent price collusion by the Consenting Defendants with other consumer bag manufacturers in the sale of consumer bags.

IV

Remedies Available to Potential Private Plaintiffs

After entry of the proposed Final Judgment, any potential private plaintiff who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable remedies which he may have had if the proposed Judgment had not been entered. The proposed Judgment may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. § 16(a).

V

Procedures Available for Modification of the Proposed Consent Judgment

The proposed Final Judgment is subject to a stipulation between the Government and the Consenting Defendants which provides that the Government may withdraw its consent to the proposed Judgment any time before the Court has found that entry of the proposed Judgment is in the public interest. By its terms, the proposed Judgment provides for the Court's retention of jurisdiction of this action in order to permit any of the parties to apply to the Court for such orders as may be necessary or appropriate for the modification of the Final Judgment.

As provided by the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), any person wishing to comment upon the proposed Judgment may, for a sixty (60) day period subsequent to the publishing of this document in the **Federal Register**, submit written comments to the United States Department of Justice, Attention: John J. Hughes, Chief, Middle Atlantic Office, Antitrust Division, 3430 United States Courthouse, Independence Mall West, 601 Market Street, Philadelphia, Pennsylvania 19106. Such comments and the Government's response to them will be filed with the Court and published in the **Federal Register**. The Government will evaluate all such comments to determine whether there is any reason for withdrawal of its consent to the proposed Judgment.

VI

Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the Antitrust Division was a full trial of the issues on the merits and on relief. The Division considers the substantive language of the proposed Judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessaray, as the Judgment provides appropriate relief against the violations alleged in the Complaint.

VII

Determinative Materials and Documents

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Therefore, none is being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b).

John J. Hughes, Raymond D. Cauley, *Attorneys, Department of Justice;* Walter L. Devany, *Attorney, Department of Justice, Antitrust Division, 3430 United States Courthouse, Independence Mall West, 601 Market Street, Philadelphia, Pennsylvania 19106.*

[FR Doc. 79-36068 Filed 11-21-79; 8:45 am]

BILLING CODE 4410-01-M

Federal Bureau of Investigation

Advisory Policy Board; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the

National Crime Information Center (NCIC) Advisory Policy Board will be held on December 12–13, 1979, Marriott Hotel, New Orleans, Louisiana. The meeting is scheduled to begin at 9 a.m. and terminate at 5 p.m. each day.

The purpose of this meeting will be to discuss policy and operational matters relating to the NCIC. Included in these topics will be a discussion of the Interstate Identification Index Concept relating to a national exchange of criminal history record information. A rewrite of the Board's Bylaws will also be reviewed.

The meeting will be open to the public. Persons who wish to make statements and ask questions of the Board members must notify the Designated Federal Employee (DFE) identified below or the Assistant Director, Technical Services Division, FBI, Washington, D.C. 20535, at least 24 hours prior to the commencement of the session. Name, corporate designation, consumer affiliation or government designation must be provided along with a capsulized version of the statement to be given and an outline of the material to be offered.

Additional information may be obtained from the DFE, Mr. Lawrence G. Lawler, Chief, NCIC Section, Technical Services Division, FBI Headquarters, Washington, D.C. 20535, telephone 202/324–2606.

Minutes of the meeting will be available upon request from the above designated FBI official.

William H. Webster,

Director.

[FR Doc. 79–36325; Filed 11–21–79; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF LABOR

Office of the Secretary

[TA–W–6023]

ACCO Industries, Inc., Page Fence Division; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 17, 1979 in response to a worker petition received on September 11, 1979 which was filed by the United Steelworkers of America on behalf of workers and former workers producing barbed wire, chain link fence, plastic coated chain link fence, and aluminum coated wire at ACCO Industries, Incorporated, Page Fence Division, Monessen, Pennsylvania. The investigation revealed that the correct corporate title is ACCO Industries, Incorporated and that the Monessen plant produces aluminized wire and aluminized chain link fencing. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of aluminized wire were negligible in 1977, 1978, and during the first half of 1979.

U.S. imports of chain link fencing declined absolutely and relative to domestic shipments in 1978 compared with 1977 and declined absolutely and relative to domestic shipments during the first half of 1979 compared with the same period in 1978.

Conclusion

After careful review, I determine that all workers of ACCO Industries, Incorporated, Page Fence Division, Monessen, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79–36119 Filed 11–21–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–6061]

Annette, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 20, 1979 in response to a worker petition received on September 17, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Annette, Incorporated, New Bedford, Massachusetts. The investigation revealed that the plant produces ladies' blouses. It is concluded that all of the requirements have been met.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requiremente have been met.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely and relative to domestic production in 1978 as compared to 1977.

A Departmental survey was conducted with the manufacturers from whom Annette, Incorporated received contract work. The survey revealed that the manufacturers did not import ladies' blouses nor did they contract with foreign sources for the production of ladies' blouses. However, the survey revealed that company sales by these manufacturers declined. A survey was then conducted with the retailing customers to whom these manufacturers sold ladies' blouses. In aggregate, retail customers, who represented a significant proportion of the manufacturers' sales, increased their purchases of imported ladies' blouses on an absolute basis as well as relative to their total demand from 1977 to 1978. These customers also increased their purchases of imported blouses on an absolute basis in the January–June period of 1979 compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' blouses produced at Annette, Incorporated, New Bedford, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Annette, Incorporated, New Bedford, Massachusetts who became totally or partially separated from employment on or after September 4, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-36120 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6148]

Barad & Co.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974 (19 U.S.C. 2273), an investigation was initiated on October 4, 1979 in response to a worker petition received on October 1, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's lingerie at Barad and Company, Thayer, Missouri.

In a letter dated October 29, 1979, the three petitioners and the Business Representative for the International Ladies' Garment Workers Union requested the withdrawal of the petition (TA-W-6148). Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 14th day of November 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-36121 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5995, 6001]

Chrysler Corp.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligible to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigations were initiated on September 7, 1979 in response to a worker petition received on September 4, 1979, which was filed by the International Union, United Automobile, Aerospace and Agricultural Workers of America (UAW) on behalf of workers and former workers producing axles, transmissions, transaxles and transfer cases at Chrysler Corporation's New Process Gear Plant, East Syracuse, New York, and producing car parts at Chrysler Corporation's Van Wert Complex, Van Wert, Ohio. The investigations revealed that the Van Wert Complex is officially known as the Amplex-Van Wert Plant of Chrysler Corporation, and that the plant primarily produces windshield wiper magnets, cold steering gear extrusions, and miscellaneous powdered metal products.

In the following determination, without regard to whether any of the other criteria have been met for workers producing axles, transmissions, transaxles, and transfer cases at the New Process Gear Plant of Chrysler Corporation, the following criterion has not been met:

> That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department determined that the vast majority of the New Process Gear Plant's production was sold to unaffiliated companies rather than used internally by Chrysler Corporation. Adjusted public sales of products manufactured at the plant increased in the final two quarters of 1978 compared to the same quarters of 1977, as well as in the first half of 1979 compared to the same period of 1978. During model year (MY) 1979, only a minor portion of the plant's total output was ultimately used in the production of Chrysler car and truck lines which have been subject to import injury.

Average employment of production workers at the New Process Gear Plant increased in each quarter of MY 1979 compared to the same quarter of MY 1978. The number of layoffs occurring at New Process Gear during August and September 1979 was less than significant in relation to the plant's total workforce. In October 1979, Chrysler Corporation began to recall workers who had been laid off from New Process Gear during the previous two months.

Chrysler Corporation recently began to modify and expand the New Process Gear Plant as part of its automotive program for the 1980's. One axle and three transmission lines, which were produced at New Process Gear in MY 1979, have been discontinued in MY 1980. At the same time, Chrysler has introduced a new line of four-wheel-drive transfer cases and has begun to convert part of the plant into a front-wheel-drive transaxle assembly line. The company currently plans to make a sizable addition to the plant in order to meet the needs of its front-wheel-drive and four-wheel-drive programs for the 1980's. Worker layoffs at New Process Gear during August and September 1979 were partly a result of change in the nature and organization of production, which temporarily reduced the plant's labor requirements.

For workers producing windshield wiper magnets, cold steering gear extrusions, and miscellaneous powdered metal products at the Amplex-Van Wert Plant of Chrysler Corporation, all of the criteria have been met.

In order to determine if increased imports contributed importantly to production and employment declines at the petitioning auxiliary plants of Chrysler Corporation, the Department sought to determine the degree to which each auxiliary plant was integrated into the production of Chrysler car and/or truck lines which have been subject to import injury.

The Department of Labor has determined that increased imports contributed importantly to the decline in sales or production and to the separation of workers at seven automobile and truck assembly plants of Chrysler Corporation (TA-W-5979-5983, 6037-6038). Workers at these plants were engaged in the production of one or more of the following car and truck lines: Aspen, Volare, Diplomat, LaBaron, Newport, New Yorker, and St. Regis automobiles, pickup trucks, general utility light trucks, and utility vans.

During the course of the investigation, it was established that the Amplex-Van Wert Plant produced a significant proportion of its output for use in one or more of the Chrysler car and truck lines which have been subject to import injury. Therefore, the Amplex-Van Wert Plant was substantially integrated into the production of the trade-impacted Chrysler car and truck lines.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with Aspen, Volare, Diplomat, LeBaron, Newport, New Yorker and St. Regis automobiles, pickup trucks, general utility light trucks, and utility vans produced by Chrysler Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers at the Amplex-Van Wert Plant of Chrysler Corporation. In accordance with the provisions of the Act, I make the following certification:

> All workers at the Amplex-Van Wert Plant, Van Wert, Ohio, of Chrysler Corporation who became totally or partially separated from employment on or after January 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

After careful review, I further determine that all workers at the New Process Gear Plant, East Syracuse, New York, of Chrysler Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

Herbert N. Blackman,

Acting Deputy Under Secretary, International Affairs.

[FR Doc. 79-36122 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6051—6053]

Clinchfield Coal Co., Camp Branch No. 1 Mine, Lambert Fork No. 24 Mine, Splashdam No. 47 Mine; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 19, 1979 in response to worker petitions received on September 17, 1979 which were filed on behalf of workers and former workers mining metallurgical coal at the Camp Branch No. 1 Mine, Lambert Fork No. 24 Mine and Splashdam No. 47 Mine of the Clinchfield Coal Company, Lebanon, Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Camp Branch No. 1 Mine and the Lambert Fork No. 24 Mine of the Clinchfield Coal Company mine coal for exports and for sale to domestic utility companies for use in producing steam. The coal mined at the Splashdam No. 47 Mine is primarily exported or sold to domestic utility companies, however a small amount of the coal is also sold to domestic metallurgical coal users. The production and employment declines at this mine are attributable primarily to a loss of export and domestic utility sales, and not to a loss of sales to domestic metallurgical coal users.

Imports of bituminous coal for use in producing steam are negligible, being less than 1 percent of domestic production. Imports have no relevant effect on export sales, and therefore cannot be considered to have contributed to a loss of such sales at any of the mines.

Conclusion

After careful review, I determine that all workers of the Camp Branch No. 1 Mine, Lambert Fork No. 24 Mine and Splashdam No. 47 Mine of Clinchfield Coal Company, Lebanon, Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-36123 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6138]

Consolidation Coal Co., Rowland Division; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligiblity requirements of section 222 of the Act must be met.

The investigation was initiated on October 2, 1979 in response to a worker petition received on September 27, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers producing metallurgical coal at Consolidation Coal Company's Rowland Division, Beckly, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Rowland Division produces metallurgical coal which is used to produce coke. Coke is metallurgical coal at a later stage of production, and therefore, can be considered "like or directly competitive" with metallurgical coal.

All coal production from the Rowland Division has been sold to foreign customers since January, 1979. In 1978, some small, irregular shipments were made to one domestic customer. This customer does not import metallurgical coal or coke. The cutbacks in production which occurred at the Rowland Division resulted from a loss of foreign markets.

Conclusion

After careful review, I determine that all workers of Consolidation Coal Company's Rowland Division, Beckley, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research

[FR Doc. 79-36124 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6105]

Converse Rubber Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 25, 1979 in response to a worker petition received on September 20, 1979 which was filed on behalf of workers and former workers producing rubber, canvas and leather athletic and leisure footwear at the Contoocook, New Hampshire facility of Converse Rubber Company. It is concluded that all of the requirements have been met.

The Contoocook, New Hampshire facility of Converse Rubber is a distribution center. Total company sales and production indicate the level of operations at Contoocook. Total company sales and production declined

in the period January through August 1979 compared to the like period of 1978.

U.S. imports of rubber/fabric footwear increased in terms of quantity absolutely and relative to domestic production in 1978 compared with 1977. In the first six months of 1979, the ratio of imports to domestic production was higher than in any year from 1972 through 1977.

U.S. imports of athletic footwear increased in terms of quantity absolutely and relative to domestic production during the first half of 1979 compared with the first half of 1978.

The Department conducted a survey of Converse Rubber Company's customers. The survey revealed that some customers decreased purchases from Converse and increased purchases of imported canvas and leather athletic footwear in 1978 compared with 1977.

Workers at all eight production plants, all four distribution centers, all regional sales offices, and the corporate headquarters have been certified eligible to apply for adjustment assistance by the Department in previous cases. In addition, workers at one plant, two distribution centers and the corporate headquarters have been recertified. (See TA-W-911, 911A, 1137, 1590, 1613, 1614, 1672, 2024, 2165, 2166, 2167, 2168, 3007, 4928, 4929, 4929A through E, 4930, 5248.)

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with rubber, canvas, and leather athletic and leisure footwear produced at Converse Rubber Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of the Contoocook, New Hampshire facility of Converse Rubber Company. In accordance with the provisions of the Act, I make the following certification:

All workers of the Contookcook, New Hampshire facility of Converse Rubber Company who became totally or partially separated from employment on or after October 31, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-36125 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6041]

Cowden Manufacturing Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met.

The investigation was initiated on September 19, 1979 in response to a worker petition received on September 10, 1979 which was filed on behalf of workers and former workers producing men's bib overalls and work clothing and women's clothes at the Lancaster, Kentucky plant Cowden Manufacturing Company. The investigation revealed that the plant produces only bib overalls. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that customers who reduced purchases of bib overalls from Cowden did not increase their reliance on bib overalls from foreign sources.

A survey of customers who purchase bib overalls from Cowden indicated that those customers representing the preponderance of Cowden's sales did not purchase imported bib overalls.

Conclusion

After careful review, I determine that all workers of the Lancaster, Kentucky plant of Cowden Manufacturing Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-36126 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 212(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 3, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than Dec. 3, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of November 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
A & W Products Company, Inc. (Teamsters)	Port Jervis, N.Y.	11/6/79	11/1/79	TA-W-6,369	School and office supplies.
Bald Eagle Coal Company (company)	Nicholas County, W. Va.	11/6/79	10/31/79	TA-W-6,370	Bituminous metalurgical coal.
Brown Shoe Co. (Amalgamated Shoe Workers Union)	Piggott, Ark.	11/1/79	10/26/79	TA-W-6,371	Men's shoes and boots.
Can Eagle Coal Company (company)	Nicholas County, W. Va.	11/6/79	10/31/79	TA-W-6,372	Bituminous metalurgical coal.
Christopher Coal Sales Corp. (company)	Nicholas County, W. Va.	11/6/79	10/31/79	TA-W-6,373	Bituminous metalurgical coal.
Como Textile Prints, Inc. (ACTWU)	Paterson N.J.	11/6/79	11/2/79	TA-W-6,374	Printed fabrics.
D & R Coat Co., Inc. (company)	Hoboken N.J.	11/6/79	10/25/79	TA-W-6,375	Ladies' coats.
Jolee Fashions, Inc. (workers)	Passaic, N.J.	11/6/79	11/1/79	TA-W-6,376	Ladies' dresses, sportswear, and coats.
Kaiser Steel Corp., Steel Manufacturing Division (USWA).	Fontana, Calif.	10/31/79	10/8/79	TA-W-6,377	C.W. pipe, E.W. pipe, steel plant, cold roll and coated products, sheet galvanize, hot rolled sheet steel, basic steel.
Lasser Garment (ILGWU)	New York, N.Y.	11/7/79	10/31/79	TA-W-6,378	Infants and children's coats, also, ladies' coats.
Research Cottrell, Inc. (workers)	Sommerville, N.J.	11/2/79	10/25/79	TA-W-6,379	Air and water pollution devices.
Robert Eagle Coal Company (company)	Nicholas County, W. Va.	11/6/79	10/31/79	TA-W-6,380	Bituminous metalurgical coal.
Sparkle Mills, Inc. (company)	New York, N.Y.	11/2/79	10/26/79	TA-W-6,381	Men's knit shirts and sweaters.
Terry Eagle Coal Company (company)	Nicholas County, W. Va.	11/6/79	10/31/79	TA-W-6,382	Bituminous metalurgical coal.
Timex Corporation (workers)	Middlebury, Conn.	10/12/79	10/5/79	TA-W-6,383	Administrative work.
Timex Clock Company (workers)	Waterbury, Conn.	10/12/79	10/5/79	TA-W-6,384	Administrative end of manufacturing and selling of clocks.
Timex Defense Products Corp. (workers)	Watertown, Conn.	10/12/79	10/5/79	TA-W-6,385	Government contracts.
U.S. Steel Corp., Homestead Works (USWA)	Homestead, Pa.	10/25/79	9/27/79	TA-W-6,386	Finished slab, plate structural and forgings shape.
William Eagle Coal Company (company)	Nicholas County, W. Va.	11/6/79	10/31/79	TA-W-6,387	Bituminous metalurgical coal.

[FR Doc. 79-36118 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6042]

Island Creek Coal Co., Virginia Pocahontas No. 2 Mine, Oakwood, Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 19, 1979 in response to a worker petition received on September 17, 1979 which was filed on behalf of workers and former workers mining metallurgical coal at the Virginia Pocahontas #2 Mine of the Island Creek Coal Company, Oakwood, Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the Virginia Pocahontas #2 Mine of Island Creek Coal Company mines coal primarily for export. Declines in production and employment at the mine are attributable primarily to a loss of export sales. Therefore, imports of coal or coke could not have contributed importantly to sales and/or employment declines at the Virginia Pocahontas #2 Mine.

Conclusion

After careful review, I determine that all workers of the Virginia Pocahontas #2 Mine of the Island Creek Coal Company, Oakwood, Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-36127 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5804 and 5805]

Jeep Corp., North Cove Boulevard Plant, Stickney Avenue Plant, Toledo, Ohio; Affirmative Determination Regarding Application for Reconsideration

On October 16 and 25, 1979, the petitioning union requested administrative reconsideration of the Department of Labor's Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers of the Jeep Corporation, North Cove Boulevard Plant and the Stickney Avenue Plant in Toledo, Ohio. This determination was published in the **Federal Register** on October 5, 1979, (44 FR 57530).

The petitioning union claims that because significant layoffs of workers producing pick-up trucks occurred after the termination date set in the certification, the termination date should be removed. The union also stated that the workers engaged in production of general utility vehicles, CJ-5 and CJ-7 models, should have been certified, given the significant importation of such vehicles from an AMC plant in Canada beginning in the third quarter of 1978. The union further claimed that other workers were integrated into the production process with those certified workers assembling pick-up trucks from April 30, 1979, and before August 10, 1979, and that the Department's determination is unenforcable because of this integration and interchangeability of job assignments.

Conclusion

After review of the application, I conclude that the claims of the petitioning union mentioned above are of sufficient weight to justify

reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 16th day of November 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-36128 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6065]

Keystone Metal Moulding Co., Pontotoc, Miss.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 20, 1979 in response to a worker petition received on September 18, 1979 which was filed on behalf of workers and former workers producing metal moulding for automobiles at the Pontotoc, Mississippi plant of Keystone Metal Moulding Company. It is concluded that all of the requirements have been met.

U.S. imports of metal auto moulding increased absolutely and relative to domestic production in 1978 compared to 1977 and in the January through June period of 1979 compared to the same period of 1978.

A Departmental survey was conducted with the manufacturers for whom Keystone Metal Moulding Company works. The survey revealed that manufacturers representing a significant portion of Keystone's sales decreased their purchase from Keystone and increased their purchases of metal auto moulding from foreign sources during the January–September 1979 period compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with metal moulding for automobiles produced at the Pontotoc, Mississippi plant of Keystone Metal Moulding Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Pontotoc, Mississippi plant of Keystone Metal Moulding Company who became totally or partially separated from employment on or after May 6, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-36129 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6044]

Luray Textile, Luray, Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 19, 1979 in response to a worker petition received on September 17, 1979 which was filed on behalf of workers and former workers producing textured raw yarn at Luray Textile, Luray, Virginia. The investigation revealed that Luray Textile is located in and produces raw yarn. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of yarns declined absolutely in the first six months of 1979 compared to the same period in 1978. The ratio of U.S. imports to domestic production was less than two percent in each year during the 1974–1977 time period. This ratio is not available for 1978.

The Department of Labor conducted a survey with the customers of Luray Textile. The survey revealed that customers did not purchase yarn from foreign sources in 1977, 1978 or 1979.

Conclusion

After careful review, I determine that all workers of Luray Textile, Luray, Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of November 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-36130 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6067]

New Jersey Steel & Structural Corp., Sayreville, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 20, 1979 in response to a worker petition received on September 18, 1979 which was filed on behalf of workers and former workers producing rebars, smooth rounds, equipment for flats and angles at New Jersey Steel Corporation, Sayreville, New Jersey. The investigation revealed that the plant produces primarily reinforcing bars at New Jersey Steel & Structural Corporation. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of reinforcing bars decreased in terms of quantity absolutely and relative to domestic production during the first half of 1979 compared with the first half of 1978.

The Department conducted a survey of some of New Jersey Steel & Structural Corporation's customers. According to the survey results the customers did not

purchase imported reinforcing bars in 1977, 1978, or during the first three quarters of 1979.

Conclusion

After careful review, I determine that all workers of the Sayreville, New Jersey mill of New Jersey Steel & Structural Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-36131 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6030]

Reynoldsville Industries, Inc., Reynoldsville, Pa.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 17, 1979 in response to a worker petition received on September 11, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing boys' knit shirts at Reynoldsville Industries, Inc., Reynoldsville, Pennsylvania. It is concluded that all of the requirements have been met.

U.S. imports of men's and boy's knit sport and dress shirts increased absolutely in each year from 1975 through 1978 when compared to the immediate preceding year.

The manufacturer for which Reynoldsville Industries, Inc. produced boys' knit sport shirts experienced a decrease in sales during the period under investigation. A survey of customers who decreased purchases of boys' knit shirts from this manufacturer indicated that some of these customers increased purchases of imported boy's knit sport shirts while decreasing purchases from the manufacturer. The survey also indicated that customers increased reliance on imported shirts to satisfy demand.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with boys' knit sport shirts produced at Reynoldsville Industries, Inc., Reynoldsville, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Reynoldsville Industires, Inc., Reynoldsville, Pennsylvania who became totally or partially separated from employment on or after May 13, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-36132 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6223]

Riviera Fashions, Inc., Springfield Gardens, N.Y.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 17, 1979 in response to a worker petition received on October 11, 1979 which was filed on behalf of workers and former workers producing ladies' sportswear at Riviera Fashions, Incorporated, Springfield Gardens, New York.

In a letter the petitioner requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 16th day of November, 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-36133 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6019]

Salant Corp., Salant & Salant Division, Paris, Tenn.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 12, 1979 in response to a worker petition received on September 6, 1979 which was filed by the United Garment Workers of America on behalf of workers and former workers producing men's western shirts, and misses' and junior's blouses at the Paris, Tennessee plant of Salant & Salant. The investigation revealed that the subject firm's correct title is the Salant & Salant Division of the Salant Corporation. It is concluded that all of the requirements have been met.

Imports of men's and boys' woven dress, business and sport shirts increased in 1978 compared to 1977 and in the first six months of 1979 compared to the first six months of 1978.

Imports of men's and boys' knit sport and dress shirts, excluding T-shirts, increased in 1978 compared to 1977.

Imports of women's, misses', and children's blouses and shirts increased in 1978 compared to 1977.

The Paris, Tennessee plant of the Salant Corporation is the only Salant plant producing men's dress and sport shirts and junior and misses' blouses. The majority of production at the Paris, Tennessee plant has been men's dress and sport shirts. Men's shirts represented the majority of the production declines.

The Department conducted a survey of some customers of the Salant Corporation that purchase men's dress and sport shirts. The survey revealed that a number of customers had decreased purchases from the Salant Corporation in 1978 compared to 1977 and in the first eight months of 1979 compared to 1978. During the same time periods several of those same customers increased purchases of imported men's dress and sport shirts.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's dress and sport shirts produced at the Paris, Tennessee plant of the Salant & Salant Division of the Salant Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Paris, Tennessee plant of the Salant & Salant Division of the Salant Corporation who became totally or partially separated from employment on or after June 16, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of November 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-36134 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6031]

Stanley Sweater Mill, Inc., Richmond Hill, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 17, 1979 in response to a worker petition received on September 12, 1979 which was filed on behalf of workers and former workers producing knitgoods (sweaters for men and women) at Stanley Sweater Mill, Incorporated, Richmond Hill, New York. The investigation revealed that Stanley Sweater Mill, Incorporated produces men's and women's sweaters.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production in 1978 as compared to 1977. The ratio of U.S. imports of sweaters to domestic production exceeded 100 percent in each year during the 1974–1978 time period.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased on an absolute basis as well as in relation to U.S. production in 1978 as compared to 1977. The ratio of U.S. imports of men's and boys' sweaters to domestic production was 94.1 percent in 1978.

The Office of Trade Adjustment Assistance conducted a survey of the major manufacturers for whom Stanley Sweater Mill did contract work. The survey revealed that manufacturers, accounting for a significant amount of Stanley's sales, utilized foreign contractors for the production of ladies' sweaters or purchased finished sweaters from foreign sources during the 1977 to August 1979 time period. Several manufacturers have been fulfilling a substantial proportion of their sweater demand via foreign sources for many years and are continuing a high level of imports in 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and ladies' sweaters produced at Stanley Sweater Mill, Incorporated, Richmond Hill, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Stanley Sweater Mill, Incorporated, Richmond Hill, New York who became totally or partially separated from employment on or after October 29, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C this 16th day of November 1979.

Harry J. Gilman,

Supervisory, International Economist, Office of Foreign Economic Research.

[FR Doc. 79-36135 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6045]

The United States Steel Corp., Gary Tubular Specialties, Gary, Ind.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 19, 1979 in response to a worker petition received on September 17, 1979 which was filed by the United Steel Workers of America on behalf of workers and former workers producing seamless steel tubular products at the U.S. Steel Corporation, Gary Tubular Specialties, Gary, Indiana. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers increased in 1978 compared with 1977, and in the first three quarters of 1979 compared with the same period in 1978. Average quarterly employment increased in every quarter, when compared with the same quarter of the previous year, from the first quarter of 1978 through the third quarter of 1979. The average number of man-hours worked increased in 1978 compared to 1977, and in the first three quarters of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of U.S. Steel Corporation, Gary Tubular Specialties, Gary, Indiana are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of November 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-36136 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6046]

Xenko, Inc., Xenko #2 Deep Mine, Fayette County, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) The Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 19, 1979 in response to a worker petition received on September 12, 1979 which was filed by the United Mine Workers of America on behalf of

workers and former workers leasing coal and paying a royalty per ton to the Dry Hill Coal Company at Xenko, Incorporated, Xenko #2 Deep Mine, Fayette County, West Virginia. The investigation revealed that workers at Xenko #2 Deep Mine mined coal on land leased from the Dry Hill Coal Company. In the following determination, wtihout regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Xenko began mining coal at its Mine #1 in April 1978. The company terminated operations at Mine #1 in March 1979 due to physical conditions at the mine. Workers at Xenko's Mine #1 were denied eligibility to apply for adjustment assistance on May 29, 1979 (TA-W-5141). In April, 1979, the company began mining coal at a second mine, employing the same workers from Mine #1. Mine #2 is the subject of the current investigation.

Xenko #2 Deep Mine sold all its coal to a single firm from April through July 1979. A Department survey revealed that Xenko's customer, a coal user and a coal broker, does not purchase foreign coal or coke. A customer of this firm reported increased reliance on foreign coke in 1978 compared with 1977. However, purchases of foreign coke by this company during the first half of 1979 decreased compared with import purchases during the same period in the previous year. This secondary customer purchased no imported coke in 1979.

Conclusion

After careful review, I determine that all workers of Xenko, Incorporated, Xenko #2 Deep Mine, Fayette County, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of November 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-36139 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6032]

Valmont, Inc., Ludlow, Mass.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 17, 1979 in response to a worker petition received on September 12, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing brassieres at Valmont, Incorporated, Ludlow, Massachusetts. It is concluded that all of the requirements have been met.

U.S. imports of brassieres, bralettes and bandeaux increased absolutely and relative to domestic production and consumption from 1977 to 1978. Imports increased absolutely in the first half of 1979 compared to the same period of 1978.

A survey of customers of the company revealed that the customer which represents a significant proportion of the company's sales decreased its purchases of brassieres from Valmont, Incorporated and increased purchases of brassieres from foreign sources in the first three quarters of 1979 compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brassieres produced at Valmont, Incorporated, Ludlow, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Valmont, Incorporated, Ludlow, Massachusetts who became totally or partially separated from employment on or after March 17, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of November 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-36137 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6013]

Wisconsin Screw Products Corp., Oshkosh, Wis.; Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 11, 1979 in response to a worker petition received on September 5, 1979 which was filed on behalf of workers and former workers producing screws and bolts at Wisconsin Screw Products Corporation, Oshkosh, Wisconsin. The investigation revealed that the plant produces small screws. It is concluded that all of the requirements have been met.

U.S. imports of small screws increased absolutely and relative to domestic production 1978 compared to 1977 and further increased in the first half of 1979 compared to the first of 1978.

A survey of the customers of the subject firm revealed that customers decreased purchases of small screws from the subject firm while increasing purchases of imported small screws in the first ten months of 1979 compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with small screws produced at Wisconsin Screw Products Corporation, Oshkosh, Wisconsin contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Wisconsin Screw Products Corporation, Oshkosh, Wisconsin who became totally or partially separated from employment on or after July 15, 1979 are

eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of November 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-36138 Filed 11-21-79; 8:45 am]

BILLING CODE 4510-28-M

LEGAL SERVICES CORPORATION

Grants and Contracts

November 16, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Judicare of Anoka County in Anoka, Minnesota to serve Anoka County.

2. Northwest Minnesota Legal Services in Moorhead, Minnesota to serve Kittson, Roseau, Lake of the Woods, Marshall, Pennington, Red Lake, Polk, Beltrami, Norman, Mahnomen, Clearwater, Clay, Becker, Hubbard, Wilkin, Otter Tail, Wadena, Traverse, Grant, Douglas, Stevens, and Pope Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 50504.

Dan J. Bradley,

President.

[FR Doc. 79-36029 Filed 11-21-79; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Museum Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amanded, notice is hereby given that a meeting of the Museum Panel to the National Council on the Arts will be held December 11, 1979, from 9:00 a.m.-5:30 p.m., in Room 1422, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Mangement Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operation, National Endowment for the Arts.

November 19, 1979.

[FR Doc. 79-36004 Filed 11-21-79; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permits Issued Under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550. Telephone (202) 632-4238.

SUPPLEMENTAL INFORMATION: On October 11, 1979, the National Science Foundation published a notice in the Federal Register, page 58818, of permit applications received. On November 9, 1979, permits were issued to David H. Elliot and Jonathan Ward. Arthur L. DeVries withdrew his application for a permit.

Charles E. Myers,

Division of Polar Programs.

[FR Doc. 79-36112 Filed 11-21-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; 17th Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of Section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission has published and issued the seventeenth periodic report to Congress on abnormal occurrences (NUREG-0090, Vol. 2, No. 2). The release date is November 20, 1979.

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the **Federal Register** (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

The seventeenth report to Congress is for the second quarter of 1979. The report identifies the occurrences or events that the Commission determined were significant and the remedial action that was undertaken. The report indicates that the following incidents or events were determined by the Commission to be significant and reportable:

(a) There were three abnormal occurrences at the 70 nuclear power plants licensed to operate. One involved an indication of low water level in a boiling water reactor, the second involved damage to new fuel assemblies, and the third involved deficient procedures. The latter item was determined reportable during report preparation and therefore has not previously been noticed in the **Federal Register**. Using the abnormal occurrence criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950), the item satisfies example I.D.3 of Appendix A: Serious deficiency in management or procedural controls in major areas.

(b) There were no abnormal occurrences at fuel cycle facilities (other than nuclear power plants).

(c) There were no abnormal occurrences at other licensee facilities.

(d) There were two abnormal occurrences reported by the Agreement States. One involved releases of tritium and contamination of food and the second involved overexposures from a radiography source.

The seventeenth report to the Congress also contains updating information on some abnormal occurrences reported in previous reports, including the nuclear accident at Three Mile Island.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street, N.W., Washington, D.C. or at any of the 130 local Public Document Rooms throughout the country. The report, designated NUREG–0090, Vol. 2, No. 2, may be purchased from the National Technical Information Service, Springfield, Virginia 22161, or from the GPO Sales Program, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, on or about December 4, 1979.

Dated at Washington, D.C. this 16th day of November 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79–36095 Filed 11–21–79; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–3, 50–247, 50–286]

Consolidated Edison Co. of New York, Inc., and Power Authority of the State of New York, Inc. (Indian Point Station, Units 1, 2 and 3); Request for Action

Notice is hereby given that by petition received September 17, 1979 the Union of Concerned Scientists requested immediate action be taken to revoke the provisional operating license for Indian Point Unit 1, that a decommissioning and decontamination plan be submitted within 90 days, that operation of Indian Point Units 2 and 3 be immediately suspended, and that an adjudicatory record be developed prior to permitting restart of these units. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 15th day of November 1979.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79–36096 Filed 11–21–79; 8:45 am]

BILLING CODE 7590–01–M

[NUREG–0348]

Demographic Statistics Pertaining to Nuclear Power Reactor Sites; Issuance and Availability

This report provides a consolidation of data which deals with the populations in areas surrounding nuclear power reactors. The report provides population statistics for 145 nuclear power plant sites, including summary tables and figures developed to aid in the evaluation of trends and general patterns associated with the various parameters of interest, such as the proximity of nuclear plant sites to centers of population. One of the reasons for publishing this information at this time is to provide a factual basis for use in discussions on the subject of reactor siting policy.

Copies of the report will be available after November 14, 1979. As long as the supply lasts, single copies of the report can be obtained by writing to the Director, Division of Technical Information and Document Control, Nuclear Regulatory Commission, Washington, DC 20555. Once this supply is exhausted, copies may be purchased from the NRC Government Printing Office Sales Program, Washington, DC 20555, or the National Technical Information Service, Springfield, Virginia 22161.

The report is a revised and updated version of a draft report published in December 1977. Errors in the population data base have been corrected and new data tabulations added. The report was revised based on comments by NRC staff members. External comments were solicited, but none were received.

William E. Kreger,

Assistant Director for Site Analysis, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 79–36097 Filed 11–21–79; 8:45 am]

BILLING CODE 7590–01–M

[Dockets Nos. 50–321 and 50–326 (Spent Fuel Expansion)]

Georgia Power Co., (Edwin I. Hatch Nuclear Plant, Units 1 and 2); Order Dismissing Proceeding

In a conference call on November 1, 1979 with a member of the Licensing Board, the NRC staff's attorney and the licensee's attorney, and confirmed by a letter dated November 2, 1979, the attorney for the petitioner, Georgians Against Nuclear Energy (GANE), withdrew its Petition for Leave to Intervene, for the expressed purpose of terminating GANE's participation in this proceeding. Petitioner's attorney indicated his understanding that the withdrawal of GANE, the sole petitioner, would terminate the proceeding before the Board, although not the staff's continuing review of the safety matters implicit in the proposed amendment of operating license.

The withdrawal of the only petitioner removes both the need and the occasion for evidentiary hearings in this proceeding. There are no longer any matters which the parties wish to resolve in this proceeding and, consequently, there is no issue to be heard by the Board.

Dismissal of this proceeding is consistent with the Commission's requirements which do not contemplate a hearing on an application for an operating license, or an amendment thereto, in the absence of any matters in controversy or any requests for hearing by interested persons, 10 CFR 2.104, 2.105, 2.714, 50.58(b), and 50.91, and is consistent with the general powers of the presiding officer in 10 CFR 2.718. Moreover, dismissal of a proceeding pursuant to agreement of the parties is consistent with the general policy of administrative law favoring harmonious settlement of contested issues, and with the provisions of 10 CFR 2.759, which specifically encourages the fair and reasonable settlement of NRC licensing proceedings.

It is ordered that petitioner GANE's request to withdraw its petition to intervene be granted. There being no outstanding petitions to intervene or requests for hearing.

It is further ordered that this proceeding, which was begun with the establishment of the Atomic Safety and Licensing Board on Sept. 27, 1979, as published at 44 FR 57541 (Oct. 5, 1979), is hereby dismissed.

Board members Glenn O. Bright and Richard F. Cole concur in this Order.

For the Atomic Safety and Licensing Board.

Dated at Bethesda, Maryland this 16th day of November, 1979.

Herbert Grossman,

Chairman.

[FR Doc. 79–36098 Filed 11–21–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50-498A & 50-499A]

Houston Lighting & Power Co. et al. (South Texas Project, Units 1 and 2); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this antitrust proceeding to consist of the following members:

Alan S. Rosenthal, Chairman
Michael C. Farrar
Richard S. Salzman

Dated: November 13, 1979.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 79-36099 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-315 and 50-316]

Indiana & Michigan Electric Co. and Indiana & Michigan Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR-58, and Amendment No. 14 to Facility Operating License No. DPR-74 issued to Indiana and Michigan Electric Company and Indiana and Michigan Power Company (the licensee), which amends the licenses and revises the Technical Specifications for operation of Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2 (the facilities) located in Berrien County, Michigan. The amendments are effective as of the date of merger of the Indiana and Michigan Electric Company and the Indiana and Michigan Power Company.

The amendments reflect and accommodate the proposed merger of the Indiana and Michigan Electric Company and the Indiana and Michigan Power Company with the Indiana and Michigan Electric Company being the surviving corporation. The amendments also incorporate certain title changes of members within the organization.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments dated August 24, 1979 and portions of letters dated December 22, 1978 and February 13, 1979; (2) Amendment Nos. 33 and 14 to License Nos. DPR-58 and DPR-74; and (3) The Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 9th day of November, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-36100 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-282 and 50-306]

Northern States Power Co.; Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 40 to Facility Operating License No. DPR-42, and Amendment No. 34 to Facility Operating License No. DPR-60 issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2 (the facilities) located in Goodhue County, Minnesota. The amendments are effective as of the date of issuance.

The amendments permit the addition of a special chlorination program for the circulating water system which is necessary to destroy the parasitic amoeba discovered in this system.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an Environmental Impact Appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated May 1973.

For further details with respect to this action, see: (1) The application for amendments dated October 30, 1979; (2) Amendment Nos. 40 and 34 to License Nos. DPR-42 and DPR-60; and (3) The Commission's related Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 2nd day of November, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-36105 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-344]

Portland General Electric Co., the City of Eugene, Oreg., and Pacific Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. NPF-1, issued to Portland General Electric Company, the City of Eugene, Oregon, and Pacific Power and Light Company (the licensees), which revised Technical Specifications for operation of Trojan Nuclear Plant (the facility) located in Columbia County, Oregon. The

amendment is effective 30 days from the date of issuance.

The amendment revises the Administrative Controls section of the Technical Specifications relating to both the on-site and off-site organizational structure.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated August 13, 1979, as supplemented August 22 and September 12, 1979; (2) Amendment No. 42 to License No. NPF–1; and (3) The Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Columbia County Courthouse, Law Library, Circuit Court Room, St. Helens, Oregon 97051. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 8th day of November, 1979.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-36101 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-514, and 50-515]

Portland General Electric Co., et al. (Pebble Springs Nuclear Plant, Units 1 and 2); Memorandum and Order Concerning Conference Scheduled for December 19, 1979

A conference of the Parties in this proceeding is scheduled for Wednesday, Decmber 19, 1979, at 9:30 a.m., local time at the following location:

Conference Room, Sheraton Inn, Portland Airport, 8235 North East Airport Way, Portland, Oregon 97218.

The purpose of this conference is to discuss schedules, the status of the State of Oregon proceeding, and the status in this proceeding of certain open items, namely:

(1) Alternative Sites.

(2) Financial Qualifications.

(3) Appendix I.

(4) "River Bend" Generic Safety Subjects.

(5) Need for Power.

Members of the public are invited to attend but limited appearances will not be received at this conference.

It is ordered.

For the Atomic Safety and Licensing Board.

Dated at Bethesda, Maryland, this 16th day of November 1979.

Elizabeth S. Bowers,

Chairman.

[FR Doc. 79-36102 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets No. 50-354, and 50-355]

Public Service Electric & Gas Co. (Hope Creek Generating Station, Units Nos. 1 and 2); Request for Action

Notice is hereby given that by petition dated October 18, 1979, Alfred and Eleanor Coleman requested that an order be issued to Public Service Electric & Gas Company to show cause why the construction permits for Hope Creek Units 1 & 2 should not be suspended or revoked for alleged violations of the Endangered Species Act of 1973. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 15th day of November, 1979.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-36104 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-272 and 50-311]

Public Service Electric & Gas Co. (Salem Nuclear Generating Station, Units 1 and 2); Request for Action

Notice is hereby given that by petition dated October 18, 1979, Alfred and Eleanor Coleman requested that an order be issued to Public Service Electric and Gas Company to show cause why the construction permit for Salem Unit 2 and the operating license for Salem Unit 1 should not be suspended or revoked. The basis of the request is alleged violations of the Endangered Species Act of 1973. This petition is being treated as a request for action under 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the petition within a reasonable time.

Copies of the petition are available for inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 15th day of November, 1979.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-36103 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260 and 50-296]

Tennessee Valley Authority; Issuance of Amendments To Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 55 to Facility Operating License No. DPR–33, Amendment No. 50 to Facility Operating License No. DPR–52 and Amendment No. 27 to Facility Operating License No. DPR–68 issued to Tennessee Valley Authority (the licensee), for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications to allow partial tensioning of the reactor vessel head bolts at 70°F rather than at 100°F as formerly required.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the

Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments dated August 6, 1979; (2) Amendment No. 55 to License No. DPR-33, Amendment No. 50 to License No. DPR-52, and Amendment No. 27 to License No. DPR-68; and (3) The Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H. Street, N.W., Washington, D.C., and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14 day of November 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-36106 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-445A and 50-446A]

Texas Utilities Generating Co., et al. (Comanche Peak Steam Electric Station, Units 1 and 2); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this antitrust proceeding: Alan S. Rosenthal, Chairman, Michael C. Farrar, and Richard S. Salzman.

Dated: November 13, 1979.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 79-36108 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-445 and 50-446]

Texas Utilities Generating Co.; Issuance of Amendment to Construction Permits and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Construction Permits CPPR-126 and CPPR-127, issued to Texas Utilities Generating Company for the Comanche Peak Steam Electric Station, Units 1 and 2, (the facility) located in Somervell County, Texas. The amendment is effective as of its date of issuance.

The amendment authorizes an additional one year of withdrawal of groundwater during construction at the presently authorized rate (not to exceed 250 gpm).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the amendment and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated June 1974.

For further details with respect to this action, see: (1) The application for amendment dated June 15, 1979; (2) Amendment No. 2 to CPPR-126, (3) Amendment No. 2 to CPPR-127; and (4) The Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717H Street, N.W., Washington, DC and at the Somervell County Public Library, On The Square, Glen Rose, Texas. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland this 16th day of November 1979.

For the Nuclear Regulatory Commission.

Donald E. Sells,

Acting Branch Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-36107 Filed 11-21-79; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-47]

Reports, Safety Recommendation Letters and Responses; Availability

Marine Accident Report

Spanish Motor Tankship RIBAFORADA Ramming of Barge MB-5, Three Wharves, and Cargo Ship M/V TIARET, New Orleans, Louisiana, December 4, 1977 (NTSB-MAR-79-15).—In its report on the investigation of this accident, the National Transportation Safety Board determined that the probable cause of the ramming was the pilot's late initiation of the turning maneuver and the failure of the master to more insistently assert his concern or to assume control of the vessel when the RIBAFORADA was too close to the left descending bank. Contributing to the cause were the pilot's limited familiarity with the maneuvering characteristics of the RIBAFORADA, and the pilot's impaired attentiveness due to fatigue.

The investigation report, released to the public on November 9, indicates that two of the RIBAFORADA's cargo tanks were breached when the accident occurred. Property damage was estimated to be $921,000. This accident was investigated jointly by the Safety Board and the U.S. Coast Guard. The formal investigation began on December 6, 1977, in New Orleans.

As a result of its analysis of this accident, the Safety Board on October 29 forwarded to the U.S. Coast Guard four new safety recommendations, Nos. M-79-103 through 106, and reiterated two previously issued recommendations, Nos. M-74-15 and M-77-33. Also, four additional recommendations, Nos. M-79-107 through 110, were forwarded to the Board of River Port Pilot Commissioners for the Port of New Orleans, in cooperation with the Crescent River Port Pilots Association, and one recommendation, No. M-79-111, was issued to the American Pilots Association on October 29. The complete text of these recommendations was published at 44 FR 64932, November 8, 1979.

Highway Accident Reports

Brief Format, Issue No. 1, 1979 (NTSB–HAB–79–1).—The Safety Board on November 8 published its brief format findings of probable cause of 26 multipurpose van accidents which occurred throughout the United States in the last six months of 1978 and in January 1979. The highway accidents were investigated by the Safety Board in preparation of its special study, "Safety of Multipurpose Vans," released last April 18 (44 FR 24656, April 26, 1979.)

The new brief report format publication, first of its kind in the highway transportation mode, incorporates single-page reports which contain the causal and contributing factors and basic factual information about each accident. The volume may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Note.—The brief reports in this publication contain essential information; more detailed data may be obtained from the original factual reports on file in the Washington office of the Safety Board. Upon request, factual reports will be reproduced commerically at an average cost of 7 cents per page for printed matter, $1 per page for black-and-white photographs, and $1.50 per page for color photographs, plus postage. Requests should be directed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Safety Recommendation Letters

Aviation

A–79–86 and 87 to the Federal Aviation Administration.—Last March 3, a Beech Travel Air, N644SE, crashed into mountains east of Elko, Nev., killing all four persons aboard. The flight was on an instrument flight rules flight plan, controlled by the Salt Lake City Air Route Traffic Control Center (ARTCC). Soon after the pilot reported to ARTCC that he was leaving 13,000 feet for 14,000 feet, the aircraft developed problems with its left engine. The highest altitude the aircraft reached was 13,200 feet, at which point the pilot initiated a descending turn to the left. When the aircraft reached 11,600 feet, the pilot declared an emergency to ARTCC and turned toward Elko.

At 10,800 feet, the controller transmitted, ". . . suggest you make a left turn and proceed eastbound from your position. There is a mountain range 12 o'clock and about 2 miles, ten eight on the altitude." When the controller suggested the turn, however, based on a mental correlation of terrain information from an overhead map with the display on his radarscope, the aircraft was already past the highest terrain along its projected track and the elevation of the terrain immediately ahead was between 5,000 and 6,000 feet. Nevertheless, the pilot turned to the left and the aircraft crashed into the mountain at 9,400 feet. The Safety Board believes that the controller was faced with an extremely difficult task in making a mental correlation of the two sources of information.

The Board also believes that if an Emergency Obstruction Video Map, which displays contour lines and terrain elevation information, had been installed in the Salt Lake City ARTCC, the controller would have known precisely where the mountain range was located in relation to the aircraft, and hence would not have the suggested heading. The pilot would then have continued descent to the aircraft's single-engine service ceiling of 7,900 feet and proceeded toward Elko. The Board believes that the use of the Emergency Obstruction Video Map, as outlined in paragraph 1481 of the Facility Management Handbook, should be expanded to include every ATC facility controlling airspace over designated mountainous areas. This map is now used at the terminal radar facilities in Seattle, Wash., and Tucson, Ariz., and other terminal facilities are equipped to accommodate the addition of this feature at small cost. Accordingly, on November 15 the Safety Board recommended that FAA:

Require all terminal facilities located in designated mountainous areas to install and use emergency obstruction video radar maps. (Class II, Priority Action) (A–79–86)

Design future ARTCC NAS Stage-A radar systems to include the capability of incorporating emergency obstruction video maps and require those facilities servicing designated mountainous areas be provided with and use the feature as the new systems are installed. (Class II) (A–79–87)

Marine

M–79–112 and 113 to the U.S. Coast Guard.—On August 27, 1978, the American containership SS SEA-LAND VENTURE collided with the Danish tanker M/T NELLY MAERSK while overtaking at the bend into Inner Bar Channel, Galveston, Texas. The NELLY MAERSK, fully loaded with medium crude oil and making about 7 kns, had made the turn and was steadying on the upbound channel heading as the SEA-LAND VENTURE was closing to port. The bow of the SEA-LAND VENTURE was crushed as it raked the portside and after deckhouse of the NELLY MAERSK. The NELLY MAERSK was pivoted into the left bank and grounded, and the SEA-LAND VENTURE veered to starboard into an anchorage to the right of the channel. There were no deaths or injuries resulting from the accident. Damage to the vessels was estimated to be $1.4 million.

Investigation showed that the pilots had agreed that when the SEA-LAND VENTURE caught up with the NELLY MAERSK in the 800-ft-wide part of the Galveston Bay Entrance Channel or in the Inner Bay Channel it would maneuver to overtake. The NELLY MAERSK was to slow and provide passing room. The overtaking was begun as the NELLY MAERSK turned left into the Inner Bar Channel. The pilots had exchanged proper whistle signals for the SEA-LAND VENTURE to overtake on the portside of the NELLY MAERSK. Without slowing the SEA-LAND VENTURE, the pilot gave an order for left 20° rudder to the helmsman to begin the overtaking and turning maneuver. The helmsman answered the order and turned the steering wheel slowly to port. The helmsman had previously been steering by gyrocompass headings conforming to the channel, using slightly more than 10° right and left rudder to maintain course. The rudder angle indicator had been about 10° right rudder and moving right and lagged in catching up to the left turn on the steering wheel. The pilot saw 10° right rudder indicated seconds after he gave the 20° left rudder order and immediately concluded that the helmsman had turned the steel the wrong way. Despite the pilot's avoidance maneuvers, using helm and engine, the two vessels collided. The relative speed and proximity of the two vessels, particularly at the channel bend, left little margin for error or avoidance maneuvers.

The Safety Board's recommendation letter notes that presently, overtaking or meeting at turns is an accepted practice in the Galveston-Houston Ship Channel; however, this accident emphasizes the need for some control over deep-draft vessels using the channels. The Board believes that these maneuvers by deep-draft vessels should not be permitted at the bends. A similar recommendation to Coast Guard to regulate the traffic on the Houston Ship Channel was made following investigation of the M/V ANCO SCEPTRE collision with Crown Central Petroleum Corporation Pier on the Houston Ship Channel. In connection with the subject accident, the Safety Board on November 9 recommended that Coast Guard:

Issue a regulation to prohibit deep-draft vessels overtaking or meeting each other at the bends in the channels when traversing the Galveston-Houston Ship Channel. (M–79–112)

Require helmsmen in the U.S. Merchant Marine to inform the officer in charge of navigation of the vessel when rudder orders have been executed, in addition to the present practice of repeating them as they are given. (M–79–113)

M–79–114 and 115 to the Galveston-Texas City Pilots Association, the Houston Pilots Association, and the American Pilots Association.—Also on November 9 as a result of the SEA-LAND VENTURE—NELLY MAERSK accident investigation, the Safety Board addressed the following recommendations to:

Galveston-Texas City Pilots Association, Houston Pilots Association: Require member pilots piloting deep-draft vessels to refrain from overtaking or meeting other vessels at the bends in the Galveston-Houston Ship Channel. (M–79–114)

Galveston-Texas City Pilots Association and Houston Pilots Association, and American Pilots Association: Require member pilots to confer with ships' master on any maneuvering agreements made over the radio telephone well in advance of the execution. (M–79–115)

All of the above marine safety recommendations are classified for priority action, Class II.

Pipeline

P–79–34 to the Research and Special Programs Administration, U.S. Department of Transportation.—The Safety Board has completed its investigation of the flash fire which erupted at 4:30 p.m. last July 31 in a small cellar beneath a commercial greenhouse in Aliquippa, Pa. Investigation showed that the fire erupted as a man entered the cellar and struck a match. The man died later that night. The fire did only minor damage to the cellar.

The Peoples Natural Gas Company was notified of the accident at 4:36 p.m. A gas serviceman arrived at the site at 5 p.m., evacuated the building, and checked for leakage on a 12-inch, 80-psig-pressure gas main which came within 5 feet of the greenhouse. The gas main was not shut down. The serviceman, using a spotting bar and a combustible gas indicator, detected gas leaking around the gas main. At 6:55 p.m. a service crew arrived and excavated the gas main. The excavated pipe showed active general corrosion with some pit holes. Six corrosion-caused leaks and one leaking clamp were detected and repaired.

A 4-inch drain hole in the concrete floor of the greenhouse cellar was located approximately 18 feet from the gas main. The leaking gas could have entered the greenhouse cellar through this drain hole. A gas line from an old gas well, which served the greenhouse boiler room at 20-psig pressure, was located approximately 150 feet from the greenhouse cellar. Bar hole tests conducted between the old gas well and the affected building showed no gas leakage from this system was reaching the accident area.

The bare steel main, designated on company records as P–670, had been installed in 1935 with compression coupling. The gas main, which extends north and south from the accident site and serves other residences along its route, had never been surveyed to determine whether active corrosion conditions existed, and it had never been cathodically protected as required by 49 CFR 192.457. The Board did find that the line had been checked quarterly for leak detection by a line walker who did not use a combustible gas indicator but depended on his sense of smell and signs of dead vegetation over the right-of-way. No leaks had been previously detected on this pipeline.

In view of its findings, the Safety Board on November 7 recommended that RSPA:

Monitor, through its State agent, the Pennsylvania Public Utility Commission, the activities of the Peoples Natural Gas Company to survey the 12-inch gas main for leaks and to cathodically protect the gas main where needed. (Class I, Urgent Action) (P–79–34)

P–79–35 through 37 to the Peoples Natural Gas Company of Pittsburgh, Pa.—Three additional "urgent action" recommendations were forwarded by separate letter, also on November 7:

Conduct an instrument (Hydrogen Flame Ionization, Combustible Gas Indicator) leak survey of the gas main identified on the company records as P–670 to determine any additional areas of leakage. (P–79–35)

Conduct a complete corrosion survey over the entire 12-inch bare steel gas main to determine any additional areas of active corrosion. (P–79–36)

Repair any leaks detected by these surveys and apply cathodic protection to those sections of the gas main found to have active corrosion. (P–79–37)

P–79–38 and 39 to the Mayor and the Council of the District of Columbia.—At 11:36 a.m. on October 30, 1979, a natural gas explosion demolished a townhouse at 215 Third Street S.E., in Washington, D.C., and damaged several nearby buildings. No one was in the townhouse at the time, but three persons passing by in a car were injured when debris from the explosion shattered glass in the car.

The Safety Board's continuing investigation of this accident has revealed that natural gas leaking from a 1-inch low-pressure plastic service line, which had been inserted into an old 1¼-inch steel service line, migrated into the townhouse and was ignited by an unknown source. Two contractors had been working near the house for 4 to 6 weeks; some of the work involved the use of mechanized excavation equipment. An inspection of the service line after the accident revealed that it had been struck by excavation equipment. The steel line had been partially broken at that point and the plastic line apparently had been pulled out of a compression coupling under the alley near where the service line entered the house. The Washington Gas Light Company, the operator of the gas line, had not been notified by either contractor of the projected work before the accident.

The Board notes that the most effective method of preventing excavation-related accidents to underground facilities is to notify the operators of utility companies of the proposed excavation work so that the operators can mark the location of their facilities before work begins. The most efficient and convenient method for contractors to make this notification is through a "one-call" system. In a "one-call" notification system, the operators of the utilities establish a center to which an excavator can make one call to notify all the participating operators. The center then alerts each operator to the need for marking the location of the facilities near the work area. There are now 106 "one-call" systems throughout the country in 40 States, and some systems cover entire States or regions. In its 1978 special study, "Safe Service Life for Liquid Petroleum Pipelines," the Safety Board noted that a 1977 survey of "one-call" systems found a markedly downward trend in damage to underground facilities after the systems were established. The greatest number of incidents of damage to underground facilities after the "one-call" systems were established, the Safety Board found, was attributed to excavators who did not notify the operators of underground facilities before undertaking excavation.

Therefore, on November 14 the Safety Board recommended that the District of Columbia:

Cooperate with the utility companies serving the District of Columbia to establish a "one-call" excavation notification system. (P–79–38)

Enact legislation which requires persons planning to excavate in the District of Columbia to notify utility companies of their plans so that the location of underground facilities can be marked before excavation is started. These notifications should be made through the "one-call" system once one is established. (P–79–39)

P–79–40 to Washington Gas Light Company, Potomac Electric Power Company, and Chesapeake & Potomac Telephone Co.—A separate recommendation letter, issued jointly to the three addresses, was also forwarded on November 14 and contained a third "Class II, Priority Action" recommendation:

In cooperation with the District of Columbia Government, expand the "Miss Utility" "one-call" system now serving areas of Maryland and Virginia to include the District of Columbia. (P–79–40)

Responses to Safety Recommendations

Aviation

A–79–6.—On November 9 the Federal Aviation Administration responded to the Safety Board's inquiry of June 5 which also commented on FAA's previous response of last May 22 to a recommendation developed during investigation of the crash of a Learjet near Vickery, Ohio, on October 20, 1978. (See 44 FR 31331, May 31, 1979.) The recommendation asked that FAA issue an Alert Bulletin recommending that all operators of Learjets review their requirement to practice a runaway trim and, if practice runaway pitch trim exercises are deemed necessary, recommending that the exercise be performed in a manner which will not allow an excessive nosedown attitude or high airspeeds to develop. The Safety Board was pleased to note from FAA's May 22 letter that FAA is preparing bulletins for air carrier and general aviation operations to fulfill the intent of the Board's recommendation.

FAA's November 9 letter reported that last June 28 FAA issued Change 17 to Order 8440.5A, General Aviation Operations Inspector's Handbook, which transmits Operations Inspector's Handbook which transmits Operations Bulletin NO. 79–3, "Simulated Runaway Pitch Trim Training—Transport Category Aircraft." FAA also issued Change 32 to Order 8430.1A, effective July 3, 1979, which contains Part 135 of Operations Bulletin No. 79–2, "Runaway Pitch Trim Training and Testing in High Performance Airplanes." Copies of the changes were attached to FAA's letter.

Highway

H–79–27 and 28.—Letter of October 29 from the National Highway Traffic Safety Administration is in response to recommendations issued last May 17 following investigation of an accident which occurred August 22, 1978, near Littleton, N.H., when an ambulance, traveling at 90 to 95 mph in response to an emergency call, failed to negotiate a curve on New Hampshire State Route 116. (See 44 FR 30179, May 24, 1979.)

Recommendation H–79–27 asked NHTSA to extend the application of Federal Motor Vehicle Safety Standards 220, Schoolbus Rollover Protection; 221, Schoolbus Body Joint Strength; and 301, Fuel System Integrity, to include ambulances and other emergency vehicles. In response, NHTSA notes that all vehicles (except motorcycles) under 10,000 pounds Gross Vehicle Weight Rate must conform to FMVSS No. 301. FMVSS No. 221 specifies body joint strength for strength for schoolbuses over 10,000 pounds. Its primary thrust is to strengthen the overlapping body panels of large schoolbuses, and is not appropriate to the smaller van type vehicles. The roof crush requirements of FMVSS No. 220 apply to all schoolbuses including those under 10,000 pounds. NHTSA is not aware of any vehicles that could be used as schoolbuses that do not meet this requirement without any further special consideration by the purchaser. Conceivably, a chassis purchased for conversion to an ambulance would not necessarily meet this standard in the final vehicle, but, as nearly as can be determined, most if not all ambulances are produced by modification of a basic vehicle rather than a basic chassis. In the vehicle investigated, NHTSA notes, the "raised" roof probably conformed to FMVSS No. 220, although the standard is not applicable to this type of vehicle. NHTSA points out that ambulances are not considered an "after-market" product, but are manufactured by second-stage companies and may be classified as a completed chassis or a modified vehicle. In either case, the final vehicle must be certified in compliance with all applicable Federal standards.

Recommendation H–79–28 asked NHTSA to study the feasibility of extending Federal Motor Vehicle Safety Standards relating to vehicle interior padding, occupant protection, and the anchorage of seats, flooring, and equipment to include ambulances and other emergency vehicles. In response, NHTSA states that the same steps are currently underway to extend certain standards to the other classes of vehicles. FMVSS No. 201, Occupant Protection in Interior Impacts, for example, is currently being amended to include all vehicles under 10,000 pounds. NHTSA has no indication that the "total design and construction" was affected by the professional alterer. NHTSA states that if this is true, the second-stage manufacturer may be in violation of the Act. "We are not aware that the 'total design and construction' of the ambulance was altered by second-stage modifications, except for the raised roof," NHTSA states.

Marine

M–77–31.—The Federal Communications Commission has provided the Safety Board with a copy of a Report and Order terminating the proceedings in PR Docket No. 70–101 in the matter of amendment of 47 CFR Part 83 to ensure the availability of certain compulsory radio equipment to the operator of the vessel's steering station in use. This document was adopted October 10 and released October 16, 1979, and serves as a response to recommendation M–77–31, issued following investigation of the PEARL C charter fishing boat accident which occurred near Astoria, Oreg., September 13, 1976. The recommendation called on FCC to require the installation at each operator steering station on charter boats of a radiotelephone or an extension speaker and microphone with adequate control of the transceiver to insure reliable communications.

The FCC document amends § 83.202(c), Watch required on vessels subject to the Communications Act, as follows:

(c) Each vessel of the United States transporting more than six passengers for hire, which is equipped with a radiotelephone installation for compliance with Part III of Title III of the Communications Act shall, while being navigated in the open sea or any tidewater within the jurisdiction of the United States adjacent or contiguous to the open sea, keep a continuous and efficient watch on 2182 kHz while the vessel is beyong VHF communication range of the nearest VHF coast station, whenever such installation is not being used for authorized traffic. While the vessel is within VHF communication range of the nearest coast station, the watch shall be kept on 156.8 MHz whenever such installation is not being used for authorized traffic. The VHF watch shall be maintained at the vessel's steering station actually in use by the qualified operator as defined by Section 83.155(e) of this part, or by a designated member of the crew who has been instructed in radio operation and voice procedure by the radio operator. The crew member so designated may simultaneously perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch.

The document also amends § 83.514(d), Radiotelephone installation, as follows:

(d) After October 1, 1980, a VHF radiotelephone installation or a remote unit with all controls necessary to ensure reliable communications, shall be located at each operator steering station aboard the vessel, except those auxiliary steering stations which are used only during brief periods for docking

or for close-in maneuvering. A single portable radiotelephone set shall be considered capable of meeting the requirements of this paragraph provided adequate permanent mounting arrangements with suitable power provision and antenna feed are installed at each operator steering station intended for all such use as is not excepted in this paragraph. Additionally, for vessels of more than 100 gross tons, the radiotelephone installation and all necessary controls shall be located at the level of the main wheelhouse or at least one deck above the vessel's main deck.

These amendments become effective November 23, 1979.

Railroad

R–79–37 through 40.—The Federal Railroad Administration on October 15 responded to recommendations issued last April 13 following investigation of the Conrail-Amtrak rear-end collision, June 9, 1978, at Seabrook, Md. (See 44 FR 23391, April 19, 1979.)

Recommendation R–79–37 asked FRA to initiate a study of cab signal equipment that analyzes the relationship between noise levels, traction motor return current and the filter characteristic of blocking, and its impact on the quality of the signal received by the cab signal. FRA reports that during investigation of the Seabrook accident, consideration was given to the presence of the 25 HZ traction motor return current and its fourth harmonic as well as any spurious signals that could have been picked up by the cab signal receivers. Extensive tests were made in the field and in the General Railway Signal Company (GRS) laboratory in Rochester, N.Y., to determine if the traction return circuit could cause or sustain the cab signal amplifiers in a self-oscillating mode. These tests and recorded data obtained while operating in both cab signal and non-cab signal territory showed that the filter operated in a manner so as to perform its intended function in the environment in which it is used.

FRA further notes that in order to be compatible with the complete system, it was necessary to redesign the input filter on equipment used in electrified territory. Because of the increased sensitivity of the modified amplifier, a complete safety analysis was completed by GRS on November 10, 1978. Retrofit has been completed on all electric cars and locomotives used on the Northeast Corridor. Further, FRA has initiated a study to include an analysis where 60 HZ traction motor current is used, such as is proposed in the Northeast Corridor improvement program.

In response to R–79–38, which recommended regulations to establish minimum standards for the design and construction of the interiors of passenger-carrying cars so that adequate crash injury protection will be provided passengers, and R–79–39, which called for regulations requiring that the emergency release mechanism for doors on passenger-carrying cars be clearly identified so that the doors can be opened easily in an emergency, FRA notes that special safety problems which arise from passenger transportation have been of deep concern to FRA, and rather than addressing each recommendation as a separate rulemaking, FRA is developing a comprehensive passenger safety program that includes all aspects of the problem. On October 6, 1977, FRA's Office of Safety and Office of Research and Development met with representatives of the Urban Mass Transportation Administration and agreed to a preliminary test plan incorporating Safety Board passenger safety recommendations. These then could be tested on passenger cars at the Department of Transporation's Test Center in Pueblo, Colo. The program is scheduled for completion during the last quarter of 1980 or first quarter of 1981. FRA states, "Until such time as the testing program has been completed, we feel we cannot adequately and fully respond to specific passenger car safety recommendations."

With respect to recommendation R–79–40, which called for regulations establishing minimum standards for the training of train crews in the safe operation of trains and in emergency procedures, FRA notes that early in 1978 it sponsored a conference on Labor/Management/Public Agency Cooperation for Railroad Employee Training. The major purpose of the conference was to bring those in railroad labor and management together with representatives of publicly supported training agencies, and the objective was to open communications so that public agencies could become better aware of the opportunities for employment in the railroad industry and the needs of the industry in terms of trained personnel.

Further, FRA is assisting the industry in its training efforts. In 1977, FRA funded a contract for developing a "Proposed Research Plan to Improve Railroad Employee Training (FRA–OPPD–78–10)." As a result of this plan, FRA initiated a contract in November 1978, to be completed in the fall of 1979, which calls for developing a comprehensive catalogue of railroad employee training programs. This catalogue will be an integral part of FRA's overall training research effort. FRA believes it can best serve the training needs of the industry through research projects of this type and does not intend to promulgate regulations in this area.

Note.—Single copies of the Safety Board's reports are available without charge, as long as limited supplies last. Copies of recommendations letters issued by the Board, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transporation Safety Board, Washington, D.C. 20594

Multiple copies of accident reports issued by the Safety Board may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

November 19, 1979.

[FR Doc. 79–36070 Filed 11–21–79; 8:45 am]

BILLING CODE 4910–58–M

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 2–34018, 2–38292, 2–41721, 2–49251, 2–61151]

Carolina Telephone and Telegraph Co.; Application and Opportunity for Hearing

November 15, 1979.

Notice is hereby given that Carolina Telephone and Telegraph Company (the "Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Bankers Trust Company under five indentures between Bankers Trust Company and the Applicant qualified under the Act (the "Prior Indentures") and under an Indenture between Bankers Trust Company and the Applicant not so qualified (the "New Indenture") are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from acting as trustee under the New Indenture.

The Applicant alleges the following:

(1) Applicant, a North Carolina corporation with telephone operations in the State of North Carolina, and Norfolk Carolina Telephone Company, a Virginia corporation with telephone operations in the States of North Carolina and Virginia ("Norfolk") are subsidiaries of United

Telecommunications, Inc., a Kansas corporation ("United").

United intends to consolidate the telephone operations of Applicant and Norfolk in the State of North Carolina. In connection with the consolidation, Applicant plans to issue unsecured Debentures under the New Indenture in the approximate aggregate principal amount of $15,854,000 (the "Debentures"). Pursuant to agreements with the holders thereof (the "Debenture Agreement"), all outstanding First Mortgage Bonds and Debentures of Norfolk ("Norfolk Securities") will be exchanged for Debentures of the Applicant. The principal amount of Norfolk Securities surrendered in the exchange will be equal to the principal amount of Debentures issued under the New Indenture. The Norfolk Securities issued under Norfolk's Indentures were purchased by institutional investors for investment and not with a view to distribution under the exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended. The Debentures of the Applicant to be issued under the New Indenture and exchanged for Norfolk Securities will consist of twenty-three series, designated Series B through X, with each series having the same interst rate, redemption provisions and maturity as the Norfolk Securities surrendered in exchange therefor and each series of Debentures will rank *pari passu* under the New Indenture. The New Indenture will contain provisions substantially identical to the provisions contained in the Prior Indentures, except for those changes necessary to provide for the issuance of serial Debentures. The New Indenture will contain all of the applicable provisions which would have been required by the Act had the New Indenture been qualified except that Applicant will not be required to file copies of reports with the Commission as required by Sections 312(b), 313(b) and 314(a) of the Act and except that the New Indenture will not contain the statement required by Section 318(a) of the Act. It is anticipated that the execution of the New Indenture, the merger and the issuance and delivery of the Debentures of the Applicant in exchange for Norfolk Securities will occur early in the fourth calendar quarter of 1979.

(2) Applicant has appointed Bankers Trust Company, a New York corporation, to act as trustee under the New Indenture.

(3) The Prior Indentures relate to five prior sales to the public of Debentures of Applicant in the original aggregate principal amount of $155,000,000 of which $145,600,000 remained outstanding as of June 30, 1979, (the "Outstanding Debentures").

(4) The New Indenture will contain provisions substantially identical to the provisions contained in the Prior Indentures, particularly insofar as the duties and responsibilities of Bankers Trust Company are concerned. Although not qualified under the Act, the New Indenture will contain, to the fullest extent possible, all the applicable provisions which would have been required under the Act had the New Indenture been so qualified. In addition, the New Indenture and the Prior Indentures contain cross-default provisions so that an event of default under one will constitute an event of default under the others. Thus the existence of the dual trusteeship should in no way inhibit or discourage the actions of Bankers Trust Company. The only material differences between the Indentures and the rights of the holders of Debentures issued thereunder relate to principal amounts, dates of issue, maturity and interest payment dates, interest rates and redemption provisions. However, since the Debentures of the Applicant to be issued under the New Indenture and the Outstanding Debentures issued under the Prior Indentures are unsecured obligations ranking *pari passau*, neither the above differences nor any other provisions of the Indentures are likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of any of the Debentureholders to disqualify Bankers Trust Company from acting as trustee under such Indentures.

(5) Applicant is not in default under the Prior Indentures.

The Applicant has waived notice of hearing, hearing on the issues raised by its application and all rights to specify procedures under Rule 8(b) of the Commission's rules of practice in connection with this matter.

For a further statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than December 10, 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 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. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as to the Commission may seem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-36011 Filed 11-21-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21299; 70-6282]

Columbia Gas System, Inc. et al.; Post-Effective Amendment Regarding Increase of Short-Term Open Account Advances

November 15, 1979.

In the matter of the Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas of West Virginia, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Ohio, Inc., 99 North Front Street, Columbus, Ohio 43215; Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314; Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas 77027; Columbia Hydrocarbon Corporation, The Inland Gas Company, Inc., 340 17th Street, Ashland, Kentucky 41101; Columbia Coal Gasification Corporation, Columbia Gas Development Corporation, Columbia LNG Corporation, Columbia Gas Development of Canada, Ltd., 20 Montchanin Road, Wilmington, Delaware 19807, (70-6282).

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and certain of its subsidiary companies named above have filed a first post-effective amendment to an application-declaration filed with this Commission pursuant to Sections 6(b), 9, 10, 12(b) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and rules 43, 45, and 50(a)(3) promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated May 18, 1979 and September 28, 1979 (HCAR Nos. 21053 and 21233, respectively), Columbia was authorized, among other things, to make short-term advances on open account to certain subsidiaries. Columbia now proposes that such authorization be amended to increase the permissible advances to Columbia Gas Transmission Corporation (Columbia Transmission) from $120,000,000 to $180,000,000 and to authorize up to $6,500,000 of such advances to Columbia Gas Development of Canada Ltd. (Development Canada). These advances will be subject to the same terms and conditions as the advances made by Columbia to certain other subsidiaries as described previously in this application-declaration.

The increase of $60,000,000 in advances to Columbia Transmission is required in order to provide Columbia Transmission with sufficient funds to finance gas purchases and other normal short-term seasonal requirements. At the time of the original filing of the application-declaration, adequate information concerning the cash impact of the Natural Gas Policy Act was not available and as a result Columbia Transmission's gas purchase expenses were under-estimated. It is now forecasted that an additional $60,000,000 of short-term financing is required to meet Columbia Transmission's peak requirement. At the time of the original filing of the application-declaration, Development Canada anticipated issuing common stock to finance portions of its 1979–80 construction program. The proposed sale of certain non-utility properties in the Beaufort Sea, however, was not forecasted at that time. The proceeds of that sale will not be realized in time to meet financial requirements of the construction program. The requested $6,500,000 short-term advances for Development Canada would be a form of bridge financing to be realized upon receipt of the proceeds of the Beaufort Sea Sale. This will avoid the overcapitalization of Development Canada which would result from the combined effect of issuance of common stock to finance construction and a subsequent sale of working interest in the Beaufort Sea properties.

The fees commissions and expenses to be incurred in connection with the proposed transactions are estimated at $1,000, composed of service fees of Columbia Gas system Service Corporation of $700 and miscellaneous expenses of $300. It is stated that no State commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may not later than December 10, 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 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-declarants 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 amended or as it may be further 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 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 Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-36012 Filed 11-21-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16349; File No. SR-PHLX-79-8]

Philadelphia Stock Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 25, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Exchange's Statement of Terms of Substance of Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX") proposes to amend PHLX Rules 1024 and 1027 by deleting Commentaries .04 through .06 under Rule 1024 and Commentary .01 under Rule 1027. The text of the proposed amendments is as follows: (Brackets denote deletions):

Conduct of Accounts for Options Trading

Rule 1024.

Commentary

[.04 Before approving an account of trust, pension fund, profit sharing plan or other fiduciary for options trading, a member organization shall be satisfied that the instruments under which the fiduciary is acting permit options trading.

.05 Before approving an account with respect to which trading authorization has been granted to a third person who is not an employee of the member organization for options trading, the member organization shall obtain written evidence of the agent's authority to act and that such authority specifically includes options trading.

.06 Before approving an account of an investment partnership or an investment club for options trading, the member organization shall obtain written evidence of the authority of the person signing the agreement required by this Rule to sign such agreement on behalf of such partnership of club, as the case may be, and that such authority specifically includes options trading. Information shall also be obtained with respect to any current long or short option positions of the respective partners or members of the partnership or investment club.

Discretionary Accounts

Rule 1027

Commentary

[.01 No transactions shall be executed in a discretionary account which would result in an uncovered short position in option contracts unless the person for whom the account is maintained has specifically authorized, in writing, transactions of this nature and such transactions are effected with due regard to the provisions of Rule 1026.]

Exchange's Statement of Basis and Purpose

The purpose of the proposed changes is to delete certain portions of rule commentary that more properly belong within the ambit of member firm control and which can otherwise be dealt with, if needed, in Exchange publications and joint SRO releases relating to supervisory guidelines and procedures.

The PHLX believes it is appropriate to delete the provisions at this time in view

of the numerous rule changes which will be proposed uniformly by the joint SRO Task Force in response to the SEC Options Study. (See SR–PHLX–79–7, SR–AMEX–79–11 and SR–CBOE–79–9.) Deletion of these provisions will bring the Exchange's rules into closer uniformity with the rules of the other options exchanges and the NASD, thus eliminating confusion and uncertainty on the part of both dual member firms and exchange personnel (primarily those who perform inspection and audit duties) as to differences in the rules of the SRO's. Since the Options Study did not mention any of the specific provisions of the rules which are proposed to be deleted, the Task Force has not considered these matters in responding to the SEC recommendations. The PHLX is submitting this file separate and apart from its file SR–PHLX–79–7 to avoid confusion with the joint efforts of the Task Force.

It should be noted that each of the provisions proposed to be deleted have been part of the PHLX rules since the start of the Exchange's options program. During this period of time, numerous member firms have pointed out the difficulty and impracticality in complying with these rules.

Rule 1024.04 and .05—The Exchange believes that firms should be able to set their own guidelines and standards and make independent legal determinations as to whether or not sufficient basis exists to approve a fiduciary or a third-party discretionary options trading account (i.e., an account where trading discretion is granted to a third person who is not an employee of the member organization) and not be confined, by Exchange rule, to require that the trading authority to such third-party specifically include options trading.

In certain cases, it is extremely difficult and impracticable (if not impossible) to amend a fiduciary or discretionary third-party trading authorization to include the word "options". Firms have noted that many attorneys and non-attorneys often use standard "boiler-plate" forms, which are intended to give the broadest possible investment and management powers, but which do not specifically include an options trading provision. Literally, such forms fail to meet the rigid requirements of these provisions. To amend these forms, in some cases by application to a court, would be both time consuming and expensive and appear to serve little benefit except to meet technical conformity with the provisions of this rule.

Those member firms which have commented on this rule believe that they should retain the right and bear the responsibility—based on the docmentary items involved—to make their own legal determinations as to whether or not to accept and approve a particular third-party discretionary or fiduciary account for options trading.

Rule 1024.06—Similarly, for the reasons noted above, the Exchange believes that firms should be able to make their own legal determinations as to whether or not a person purportedly acting on behalf of an investment club or partnership has proper authority to so act and not be confined, by Exchange rule, to require that such authority specifically includes options trading.

Oftentimes, investment clubs and partnerships use standard forms (for resolutions, articles, By-Laws, etc.) to ease the way in transacting business, although many of such forms were designed prior to the commencement of listed options trading. While it may be the express intent of a partnership or club to engage in options transactions, absence of the required options trading provision would not meet the requirements of the rule.

Also, the requirement that firms ascertain and track the options positions of individual partners and members of the investment partnership or club is a virtual impossible requirement. Deletion of this provision, however, will not relieve a firm from its duty to ensure that violations of the aggregation provision under the position limits rule do not occur. Thus, to the extent they are aware of such positions, firms would need to aggregate the personal options positions of those club members or partners who exercise control over the investment decisions of the club or partnership with the options positions of such club or partnership.

Rule 1027.01—The Exchange believes that since firms are required to adopt supervisory procedures to ensure that any and all discretionary account transactions are suitable for customers, it is not necessary that they be prohibited, by Exchange rule, from executing certain specified transactions unless specifically authorized (e.g., the uncovering of a covered position or the establishment of a short position). Current and proposed suitability rules (PHLX Rule 1026, AMEX Rule 923 and CBOE Rule 9.9) and other requirements relating to supervision of accounts require firms to ensure that proper trading is conducted at all times in each customer's account. (See PHLX Rule 1025 and Circular No. 77–13 "Regulatory Guidelines for Conducting a Public Business in Options (Puts and Calls)"; AMEX Rule 922 and Regulatory Guidelines for Conducting a Public Business in AMEX Listed Options and CBOE Rule 9.8 and Educational Circular No. 6.) Accordingly, the PHLX believes the provisions of this rule can be deleted.

The basis for the proposed rule change is found in Section 6(b)(5) of the Securities Exchange Act of 1934, as amended, which provides, in pertinent part, that the rules of the Excahge be designed to promote just and equitable principles of trade and protect investors and the public interest.

As noted in Item 3 above, in part, the amendments to Rules 1024.04, .05 and .06 and 1027.01 were proposed in response to oral comments made by member organizations. No written comments were solicited or received.

The proposed rule changes will not impose any burden on competition and will bring the PHLX rules in closer uniformity to the comparable rules of other options exchanges.

On or before December 28, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change; or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 14, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 16, 1979.

[FR Doc. 79-36009 Filed 11-21-79; 8:45 am]

BILLING CODE: 8010-01-M

[File No. 1-5260]

Zero Corp.; Application to Withdraw From Listing and Registration

November 15, 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 (the "Act") 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:

1. Zero Corporation's ("Zero") comon stock was listed and registered for trading on the Amex on July 14, 1966.

2. Zero's common stock became listed and registered for trading on the New York Stock Exchange, Inc. ("NYSE") on October 11, 1979. Simultaneously, Amex suspended trading in the issue pursuant to Rule 12d2-1 of the Act.

3. Zero has determined that the direct and indirect costs and the possibility of market fragmentation do not justify maintaining common stock listings on both the Amex and NYSE.

This application relates solely to withdrawal of the applicant's common stock from listing and registration on the Amex and will have no effect upon the continued listing of that stock on the NYSE. The Amex has posed no objections in this matter.

Any interested person may, on or before December 7, 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. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-36010 Filed 11-21-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5365]

Brooklyn Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company

On February 23, 1979, a notice was published in the **Federal Register** (44 FR 10804), stating that Brooklyn Capital Corporation, located at 1476 39th Street, Brooklyn, New York 11218, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1978), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business March 12, 1979, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 02/02-5365 to Brooklyn Capital Corporation on November 2, 1979.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 16, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-36149 Filed 11-21-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0169]

Louisiana Equity Capital Corp.; Application for Transfer of Control of a Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the regulations governing small business investment companies (13 CFR § 107.701 (1979)), for transfer of control of Louisiana Equity Capital Corporation (LECC), located at 451 Florida Street, Baton Rouge, Louisiana 70801, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

LECC was licensed on February 21, 1974, with an initial private capital of $900,000. It was owned equally by Louisiana National Bank of Baton Rouge, Bank of New Orleans, and Ouachita National Bank in Monroe. It is proposed that Louisiana National Bank acquire 100 percent of the Licensee's issued and outstanding stock for cash.

The proposed transfer of control is subject to the approval of SBA. If such approval is given, the officers and directors of LECC will be:

Charles W. McCoy, 17 Stone's Throw, Baton Rouge, Louisiana 70809, Chairman, Director.
George Lee Griffin, 3100 Fairway Drive, Baton Rouge, Louisiana 70809 President, Director.
Norman L. Phillips, 9302 Hilltrace Avenue, Baton Rouge, Louisiana 70809, Executive Vice President, Director.
William W. Scheffy, 8212 Argosy Court, Baton Rouge, Louisiana 70809, Executive Vice President, Director.
Robert B. McCall III, 2225 Kleinert Avenue, Baton Rouge, Louisiana 70806, Vice President.
Barry W. Braucht, 5635 Port Hudson Drive, Baton Rouge, Louisiana 70816, Vice President.
Nancy M. Richmond, 8632 Norfolk Drive, Baton Rouge, Louisiana 70809, Treasurer.
Laura L. Oubre, 1755 College Drive #104, Baton Rouge, Louisiana 70808, Secretary of the Board.
John G. Munsell, 7431 Rienzi Blvd., Baton Rouge, Louisiana 70809, Director.
Howard E. Samuel, 5258 Belvedere Drive, Baton Rouge, Louisiana 70808, Director.

There will be no significant changes in the operations of the Licensee, but its two branch offices—in New Orleans and Monroe—will be closed.

Matters involved in SBA's consideration of the application include the general business reputation and character of management and shareholders, and the probability of successful operations of LECC under their management, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than (fifteen days from the date of publication of this notice), submit to SBA in writing, comments on the proposed transfer of control of this company. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published by LECC in a newspaper of general circulation in Baton Rouge, Louisiana.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: November 16, 1979.

Peter F. McNeish,

Acting Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79-36150 Filed 11-21-79; 8:45 am]

BILLING CODE 8025-01-M

SMALL BUSINESS CONFERENCE COMMISSION

White House Conference on Small Business; Meeting

In accordance with Section 10(a) of the Federal Advisory Committee Act (5 USC appendix I), announcement is made of the following national commission meeting.

Small Business Conference Commission—December 17, 1979—2:30 p.m.—4:00 p.m., Room 2010, New Executive Office Building, Washington, D.C.

Open Meeting

Purpose: The Small Business Conference Commission was established by Executive Order to provide advice with respect to the holding of a White House Conference on Small Business in early 1980. In pursuit of the goal of a strong small business community, the Commission shall recommend issues to be considered by the Conference including those related to fostering of small business and the expansion of opportunities for entry into small business enterprises. The Commission shall make recommendations for legislative and policy changes primarily based upon the findings of the White House Conference on Small Business.

Agenda: The Commission shall address the above issues and review the progress of research task forces in addition to other Commission business.

Contact: Heidi Hanson, Executive Assistant to the Director, White House Conference on Small Business, 730 Jackson Place, N.W., Washington, D.C. 20006.

Please write before December 17, 1979, if you wish to attent this meeting. Attendence by the public will be limited to space available.

Summaries of the transcript of the meeting will be made available to the public upon request at cost.

Dated: November 19, 1979.

K Drew,

Deputy Advocate for Advisory Councils, U.S. Small Business Administration.

[FR Doc. 79-36151 Filed 11-21-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 99.1.1.1]

Chief, General Services Division, and Chief, Purchasing Branch, Office of Management Operations; Redelegation of Authority Regarding the Contracting Function

Correction

In FR Doc. 79-24642 appearing on page 47195 in the issue of Friday, August 10, 1979, the "Redelegation of Authority Number" in the heading reading "99.1.1" should have read "99.1.1.1".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RMB-80-1, Notice No. 1]

Request for Comment on Investment Application

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice and Request for Comment on Application of TELACU Investment Company, Inc. (TELACU), for purchase of its preferred stock by the FRA.

SUMMARY: As part of its program of assisting minority enterprises in participating in the rebuilding and revitalizing of the railroads, the FRA is investing in certain minority enterprise small business investment companies (MESBICs). These MESBICs receive matching and other funds from the Small Business Administration (SBA). Through the FRA investment and the leveraging of SBA funds, the MESBICs are able to invest in eligible firms doing railroad related work. A new application has been received from TELACU, and the FRA is requesting comments on the application.

DATES: The deadline for comment is December 13, 1979.

ADDRESS: Written comments should identify the docket number and the notice number and must be submitted to the Docket Clerk, Office of Chief Counsel, FRA, Room 8211, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, not later than the comment closing date. Written comments will be available for inspection both before and after the close of the comment period at the foregoing address between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Patrick O'Driscoll, Office of Chief Counsel, FRA, Room 8211, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone (202) 472-5311.

SUPPLEMENTARY INFORMATION: By notices of July 25, 1978, and November 29, 1979 (43 FR 33358, 43 FR 56744, respectively), the FRA advised that it had requested applications from seven MESBICs licensed by the SBA, under section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681), for the purchase by the United States of their preferred stock ("stock") under section 11 of the DOT Act, as amended (49 U.S.C. 1657a). The names and addresses of the MESBICs were contained in the notices. Notice is hereby given that the FRA has received and has under review an additional application. The applicant is: TELACU Investment Company, Inc., South Atlantic Boulevard, East Los Angeles, California 90022, (Docket No. RMB-80-1).

TELACU proposes that the United States purchase two million dollars worth of its preferred stock. The proceeds from the sale of the stock and any matching SBA funds are to be used by TELACU to make investments in "socially or economically disadvantaged small businesses" to enable such firms to engage in business activities related to the maintenance, rehabilitation, restructuring, improvement, and revitalization of the nation's railroads.

The application will be made available for inspection during normal business hours in Room 8211 of the FRA, subject to the regulations of the Office of the Secretary of Transportation set forth in 49 CFR, Part 7.

Issued in Washington, D.C. on November 15, 1979.

John M. Sullivan,

Administrator.

[FR Doc. 79-35717 Filed 11-23-79; 8:45 am]

BILLING CODE 4910-06-M

[FRA Waiver Petition Docket HS-79-21]

Fore River Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR § 211.41 and § 211.9, notice is hereby given that

the Fore River Railroad Company (FOR) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91–169, 45 U.S.C. (64a(e)). That petition requests that the FOR be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The FOR seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS–79–21, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before December 31, 1979, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

(Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary. 49 CFR 1.49(d).)

Issued in Washington, D.C. on November 15, 1979.

Joseph W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 79–36114 Filed 11–21–79; 8:45 am]

BILLING CODE 4910–06–M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Restructuring of Railroad Facilities in the St. Louis Metropolitan Area Rail Gateway Terminal Located in Madison and St. Clair Counties, Ill., and the City of St. Louis, Mo.

November 9, 1979.

AGENCY: U.S. Department of Transportation, Federal Railroad Administration

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

PROPOSED ACTION: The proposed action would involve improving railroad operations, reducing railroad/community conflicts, and freeing property for redevelopment through the restructuring of existing rail facilities, phasing out operations in certain yards and concentrating them in others, and perhaps construction of new rail yard and trailer-on-flat-car/container-on-flat-car (TOFC-COFC) facilities in the Gate way Area.

ALTERNATIVES CONSIDERED: The following alternatives for rail restructuring are now being considered:

- Alternative A consists of the "no-build" alternative.
- Alternative B consists of a "Two-Yard" proposal that would improve the railroad corridors in the Gateway, expand Madison and Gateway Yards in Illinois, and restructure the Carrie Avenue Yards in Missouri for west-side industry support.
- Alternative C consists of a "Three-Yard" alternative that would improve the Gateway Yard, and possibly restructure Madison and Carrie Avenue Yards.

PUBLIC INVOLVEMENT: Considerable public involvement in this project is being obtained from an extensive Community Involvement program organized through the St. Louis Metro Area Rail Gateway Enterprise (St. Louis MARGE). Along with input from the general public, there are several formal committees that help provide input from the surrounding areas. These committees include Railroad and Public Agency Steering Committees, Railroad and Public Agency Technical Advisory Committees, and a Citizens Advisory Committee. a series of public informational meetings are planned throughout the time frame for producing the DEIS.

ISSUES: Significant issues to be analyzed in the DEIS will include a determination of the extent, in degree and kind, to which the Selected Plan and any reasonable alternatives might positively or negatively impact on the human and natural environments. While these significant issues have not yet been identified, the Federal Railroad Administration recommends discussion of the following areas of impact: Air and water quality; Noise and vibration; Solid waste disposal; Natural ecological systems; Wetlands; Endangered species; Flood hazard evaluation and flood plain managment; Coastal zone management; Energy; Use of natural resources other than energy; Aesthetic environment and scenic resources; Transportation; Elderly and handicapped; Land use; Socioeconomic environment; Public health and safety; Recreation; Significant historical, Archeological, Architectural, and Cultural sites; and construction impacts.

SCOPING MEETING: All potentially impacted local, State, and Federal agencies are being involved in the study through the actions of the Federal Railroad Administration and the St. Louis MARGE. An initial scoping meeting for interested Federal agencies will be held at the St. Louis MARGE Program Office, 325 Missouri Avenue, East St. Louis, Illinois, at 10 a.m. on Thursday, November 29, 1979.

AVAILABILITY: It is intended to make this Draft Environmental Impact Statement available to the public on or about June 30, 1980.

ADDRESS: Questions about the proposed action and the DEIS should be directed to:

PRINCIPAL PROGRAM PERSON: Richard J. Crisafulli, Program Management Advisor, Federal Railroad Administration, Washington, D.C. 20590; (202) 472–7180.

PRINCIPAL ATTORNEY: Brigid Hynes—Cherin, Attorney Advisor, Federal Railroad Administration, Washington, D.C. 20590; (202) 472–5438.

PRINCIPAL REVIEW PERSON: Marilyn W. Klein, Environmental and Special Projects Officer, Office of Policy and Program Development, Federal Railroad Administration, Washington, D.C. 20590; (202) 426–9684.

Robert C. Hunter,

Director, Office of Passenger and Special Programs.

[FR Doc. 79–36089 Filed 11–21–79; 8:45 am]

BILLING CODE 4910–06–M

National Highway Traffic Safety Administration

California Highway Patrol; Denial of Petition for Ruelmaking

This notice denies a petition for ruelmaking submitted by the California Highway Patrol (CHP) to amend Standard No. 217, *Bus Window Retention and Release*, as it applies to school buses. The CHP petition would have the agency change the name of the standard and increase the number of emergency exists in school buses. For the reasons set forth below, the CHP petition is denied.

The CHP stated that existing transit buses are safer than school buses because they have significantly more exits than do school buses. Transit buses are required to have emergency exits with a total number of square inches equal to 67 times the designated seating positions. School buses on the other hand need only have a rear emergency exit or a side emergency exit and a rear push-out window. The difference in the treatments of these two bus types, according to the CHP, results in unsafe school buses. The CHP would have the agency increase the exit requirements to one exit for every other row of seats in school buses.

Transit buses and school buses have different requirements in a variety of areas because of their specialized functions and different considerations for the safety of their occupants. For example, transit buses have push-out window exits at all or most seating positions. While this type of emergency exit may be appropriate in vehicles that are transporting primarily adults, push-out windows at each seating position may not be safe for vehicles involved primarily in the transportation of children. Push-out windows can result in abuse and provide an attractive opportunity for children to hang out of the sides of buses.

The agency acknowledges that the existing regulation permits fewer emergency exits in school buses than in transit buses. However, we have no evidence that the number of exits currently manufactured into school buses has been a contributing factor in the death or injury of school children transported in those vehicles. Therefore, the agency concludes that the requirements are satisfactory at this time. Nonetheless, the agency continues to monitor the exit issue and will take action if it appears appropriate.

The agency notes that the emergency exit requirement like all Federal safety standards is a minimum safety requirement. States are permitted in their purchase contracts for buses to specify more emergency exits if they believe that their own particular circumstances warrant safety measures. Further, States can specify more stringent State standards for emergency exists in buses purchased for their own use. Therefore, if the CHP considers that California needs justify additional emergency exits in their buses, it is free to require them. However, the agency does not perceive a national need to upgrade the exit requirements in school buses at this time.

The CHP also claimed that the existing title of the standard is confusing and therefore it recommended that the name of the standard be changed. The agency considers the title of the standard to be relatively unimportant. Certainly, a separate rulemaking action is not justified merely to change a standard's title. However, when the agency modifies Standard No. 217 in the future, we will consider changing the title to something that is more descriptive of the standard.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued November 14, 1979.

Joan Claybrook,

Administrator.

[FR Doc. 79-35651 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-59-M

National Highway Safety Advisory Committee; Field Trip

The National Highway Safety Advisory Committee's Task Force on the 55 mph speed limit is planning a field trip to Austin, Texas on December 12-13, 1979.

Task Force members plan to meet with legislators, enforcement people including the judiciary, highway safety officials, educators and media representatives to discuss current programs used to improve voluntary compliance with the 55 mph speed limit. The members will also discuss the costs and benefits of the 55 mph program.

A report on the trip will be made by the Task Force chairman at the January meeting of the full Advisory Committee. The arrangement for visits to various officials are being made by the National Highway Traffic Safety Administration's Region VI Administrator and the Texas Governor's Highway Safety Representative.

The visit is subject to the approval of the appropriate DOT officials.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, S.W., Washington, D.C., 20590, telephone, 202-426-2872.

Issued in Washington, D.C. on November 14, 1979.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 79-35665 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in September 1979. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo-vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewals		
2587-P	DOT-E-2587	Mansfield Oxygen Corp., Mansfield, Ohio	49 CFR 173.315(a)(1)	To become a party to Exemption 2587. (Mode 1.)
2709-X	DOT-E 2709	U.S. Department of Defense, Washington, D.C	49 CFR 173.52, 177.834(L)(1)	To ship a Class A explosive liquid in non-DOT specification drums. (Mode 1.)
3121-X	DOT-E 3121	U.S. Department of Defense, Washington, D.C	49 CFR 173.336(a), 177.841(b)	To ship a certain Class A poisonous liquid in a non-DOT specification cargo tanks. (Mode 1.)
3415-X	DOT-E 3415	U.S. Department of Defense, Washington, D.C	49 CFR 173.79, 173.92	To ship certain Class A or Class B explosive rocket motors without overpacking. (Mode 1.)
3600-X	DOT-E 3600	U.S. Department of Defense, Washington, D.C	49 CFR 172.101, 173.87, 172.300	To ship gas generators and other explosive components with empty rocket engine, Class B or Class C explosives. (Mode 1.)
4459-X	DOT-E 4459	Lif-O-Gen American Life Support Corp., Cambridge, Md.	49 CFR 173.302(a)(1), 173.304(a)(1), 173.328(a)(2), 173.353(a)(3), 178.37, 175.3.	To manufacture, mark and sell non-DOT specification steel spheres for shipment of compressed gases and other hazardous materials. (Modes 1, 2, 4.)
4575-X	DOT-E 4575	ICI Americas Inc., Wilmington, Del	49 CFR 173.314(c), 173.315(a)(1)	To ship certain liquefied compressed gases in DOT specification and non-DOT specification cargo tanks and tank car tanks. (Modes 1, 2, 3.)
4612-X	DOT-E 4612	MC/B Manufacturing Chemists, Norwood, Ohio	49 CFR Part 173	To ship small quantities of various hazardous materials in inside glass bottles packed in metal cans overpacked in DOT Specification 12B fiberboard boxes. (Mode 1.)
5248-X	DOT-E 5248	The 3M Co., St. Paul, Minn.; Rockwell International, Anaheim, Calif.; The Boeing Co., Seattle, Wash.	49 CFR 173.389(g), 175.3	To ship a certain radioactive material in DOT approval outer Type A packaging. (Modes 1, 2, 3, 4.)
5746-X	DOT-E 5746	U.S. Department of Defense, Washington, D.C	49 CFR 172.101, 173.145, 173.268, 176.83(b), 175.3.	To ship expended missiles and detanking pumps contaminated with a certain flammable liquid and a corrosive liquid in military specification cartons on wooden boxes. (Modes 1, 2, 3, 4.)
5777-X	DOT-E 5777	U.S. Department of Defense, Washington, D.C	49 CFR 172.101, 173.93(c)	To ship a certain Class B explosive in non-DOT cylindrical type metal containers. (Modes 1, 2.)
5895-X	DOT-E 5895	Explosive Technology, Fairfield, Calif	49 CFR 173.100(cc), 173.104(b)(9), 175.3.	To ship Class C explosives in non-DOT specification inner containers overpacked in a DOT Specification 12H fiberboard box, or a wooden box. (Modes 1, 2, 3, 4.)
5945-X	DOT-E 5945	Air Products and Chemicals, Inc., Allentown, Pa	49 CFR 173.315, 178.245	To ship a nonflammable compressed gas in insulated portable tanks complying with DOT Specification 51 except water capacity is less than 1,000 pounds. (Mode 1.)
6128-X	DOT-E 6128	Hapag-Lloyd AG, Hamburg, West Germany	49 CFR 173.119, 173.125(a), 173.346(a).	To ship cerain hazardous materials in non-DOT specification intermodal portable tanks. (Modes, 1, 2, 3.)
6228-X	DOT-E 6228	Air Products and Chemicals, Inc., Allentown, Pa	49 CFR 173.301(d)(4)	To ship a flammable compressed gas in manifolded DOT Specification 8 or Specification 8 AL cylinder. (Mode 1.)
6293-P	DOT-E 6293	Hercules Inc., Wilmington, Del	49 CFR 173.21(b), 173.245(a)(31)	To become a party to Exemption 6293. (Mode 1.)
6498-X	DOT-E 6498	Luxfer USA, Ltd., Riverside, Calif	49 CFR 173.302(a)(1), 173.304(a)(1), (d)(3), 173.336(a)(2), 175.3.	To manufacture, mark and sell non-DOT specification seamless high pressure aluminum cylinders for shipment of certain liquefied and nonliquefied compressed gases and certain other hazardous materials. (Modes 1, 2, 3, 4, 5.)
6672-X	DOT-E 6672	Chandler Evans Inc., West Hartford, Conn	49 CFR 173.302(a)(4), 175.3	To manufacture, mark and sell non-DOT specification steel cylinders for shipment of certain nonliquefied compressed gases. (Modes 1, 2, 4.)
6738-X	DOT-E 6738	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.; El Paso Products Co., Odessa, Tex.; Texas Eastman Co., Longview, Tex.	49 CFR 172.101, 173.315(a)	To ship a flammable gas in non-DOT specification cargo tanks. (Mode 1.)
6798-P	DOT-E 6798	Koppers Co., Inc., Pittsburgh, Pa	49 CFR 173.164(a)	To become a party to Exemption 6798. (Modes 1, 2.)
6824-X	DOT-E 6824	Georgia-Pacific Corp., Los Angeles, Calif	49 CFR 173.217(a)	To ship certain oxidizing materials in specially designed polyethylene bottles overpacked in non-DOT specification corrugated fiberboard boxes. (Modes 1, 2, 3.)
6844-X	DOT-E 6844	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.249a	To ship a certain corrosive liquid in a non-DOT specification "Dypak" single-trip polyethylene container plywood box package. (Modes 1, 2, 3.)
7418-X	DOT-E 7418	Seatrain Lines, Inc., Weehawken, N.J	49 CFR 173.125	To ship flammable liquids in a non-DOT specification portable tank. (Modes 1, 2, 3.)
7466-X	DOT-E 7466	Firmenich, Inc., Princeton, N.J	49 CFR 173.119(a)(7), 175.3	To ship certain flammable liquid mixtures in an aluminum can over-packed in a non-DOT specification corrugated fiberboard box. (Modes 1, 2, 3 4.)
7909-X	DOT-E 7909	Dow Chemical Co., Midland, Mich	49 CFR Part 172; Part 173	To manufacture, mark and sell non-DOT specification multi-composite packaging for shipment of poisonous liquids and solids in limited quantities. (Modes 1, 2, 4.)
7931-X	DOT-E 7931	Degussa Central Transport Department, Frankfurt, West Germany.	49 CFR 173.346	To ship a certain Class B poisonous liquid in non-DOT specification portable tanks. (Modes 1, 2, 4.)
8005-P	DOT-E 8005	G. Hartig K. G., Mannheim, Germany	49 CFR 173.266	To become a party to Exemption 8005. (Modes 1, 2.)
8049-X	DOT-E 8049	U.S. Department of Defense, Washington, D.C	49 CFR 146.05-15; 49 CFR 172.407(c), 172.400(a).	To authorize certain labeling exceptions for military explosives transported by vessel. (Modes 1, 2, 3.)
8110-P	DOT-E 8110	Eurotainer, Paris, France; CATU, Geneva, Switzerland.	49 CFR 90.05-35; 49 CFR Part 173	To become a party to Exemption 8110. (Modes 1, 2, 3.)
8146-P	DOT-E 8146	Rocket Research Co., Redmond, Wash	49 CFR 173.375	To become a party to Exemption 8146. (Modes 1, 2.)
8229-P	DOT-E 8229	Hercules Inc., Wilmington, Del	49 CFR 172.504, 172.506, 173.2	To become a party to Exemption 8229. (Mode 1.)
		New Exemptions		
8131-N	DOT-E 8131	The National Aeronautics and Space Administration, Washington, D.C.	49 CFR 173.302(a), 173.34(d), 173.301(d), 175.3.	To ship oxygen, a nonflammable gas, in a non-DOT specification pressure vessel. (Modes 1, 2, 4.)
8177-N	DOT-E 8177	A. O. Smith-Inland, Inc., Little Rock, Ark	49 CFR 173.245(a)(12), 175.3	To ship a corrosive material in DOT Specification 12B corrugated fiberboard box. (Modes 1, 2, 3, 4.)
8182-N	DOT-E 8182	Fauvet-Girel, Paris, France	49 CFR 173.348	To ship arsenic acid solution in a non-DOT specification intermodal portable tank. (Modes 1, 2, 3.)
8196-N	DOT-E 8196	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.315	To ship certain compressed gases (refregerants) in a non-DOT specification portable tank. (Modes 1, 3.)
8198-N	DOT-E 8198	Technicon Instruments Corp., Tarrytown, N.Y	49 CFR 172.101, 173.65, 175.3	To ship medical devices containing small quantities of picric acid and sodium hydroxide in multiple composite packaging. (Modes 1, 2, 3, 4.)

New Exemptions—Continued

8204-N	DOT-E 8204	Pacific Gas and Electric Co., San Francisco, Calif	49 CFR Part 107	To authorize use of bills of lading with the shipper certification printed at the top instead of the bottom as prescribed, until depletion of existing stock. (Mode 1.)
8212-N	DOT-E 8212	The Embassy of Switzerland, Washington, D.C.	49 CFR 172.101, 173.87, 175.3	To authorize shipment of rocket ammunition, Class A or B explosive, by cargo-only aircraft. (Mode 4.)
8213-N	DOT-E 8213	Trailmaster Tanks, Inc., Fort Worth, Tex	49 CFR 173.119(a)(17), 173.245(a)(30), (31), 178.342-5.	To manufacture, mark and sell non-DOT Specification cargo tanks for shipment of waste flammable and corrosive liquids. (Mode 1.)
8214-N	DOT-E 8214	Thiokol, Wasatch Div., Brigham City, Utah	49 CFR 173.153, 173.154, 175.3	To ship inflators and modules for passive restraint system, classed as flammable solids, for use in automobiles, (Modes 1, 2, 4.)
8218-N	DOT-E 8218	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.93	To ship certain solid propellant explosives, Class B, in non-DOT specification polyethylene/polypropylene bags. (Mode 1.)
8220-N	DOT-E 8220	Applied Environments Corp., Van Nuys, Calif	49 CFR 173.302(a), 175.3	To ship nonflammable compressed gases in a non-DOT Specification small, high pressure cylinders patterned after DOT Specification 3HT. (Modes 1, 2, 4.)
8229-N	DOT-E 8229	Atlas Powder Co., Dallas, Tex	49 CFR 172.504, 172.506, 173.2	To ship certain oxidizers in the same vehicle or rail car with blasting agents, n.o.s. and/or ammonium nitrate oil mixtures. (Modes 1, 2.)

Emergency Exemptions

Application Received and Granted

EE7060-P	DOT-E 7060	Golden Eagle Air Services, Inc., Jennings, Mo	49 CFR 175.75(a)(13), 175.700(a)	To become a party to Exemption 7060. (Mode 4.)

Denials

8133-N—Request by Alpha Chemical Co., Lake Charles, La.—To ship and transport a corrosive liquid in a non-DOT specification stainless steel cargo tank, denied September 20, 1979.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-35899 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulations of the Materials Transportation Bureau has received the applications described herein.

DATES: Comment period closes December 24, 1979.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the application are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 Seventh Street, SW., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

New Exemptions

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8296-N	ANF Industries, Paris, France	49 CFR 173.315	To authorize shipment of Vinyl bromide and two low pressure gases in non-DOT Specification IMCO Type V portable tanks. (Modes 1, 2, 3.)
8297-N	SMG, Gray, France	49 CFR Part 173, Subpart D, F, H, and K.	To authorize shipment of liquid hazardous materials of various classifications in non-DOT Specification IMCO Type II portable tanks. (Modes 1, 2, 3.)
8298-N	Compagnie Francaise De Materiel Ferroviarire, Paris, France.	49 CFR Part 173, Subpart D, F, H, and K.	To authorize shipment of liquid hazardous materials of various classifications in non-DOT specification IMCO Type I portable tanks. (Modes 1, 2, 3.)
8299-N	HTL Industries Inc., Monrovia, Calif	49 CFR 173.302(a)	To manufacture, mark and sell a specially designed high pressure, stainless steel cylinder for shipment of a non-flammable compressed gas mixture. (Modes 1, 2, 4, 5.)
8300-N	United Parcel Service, Greenwich, Conn	49 CFR 172.200	To authorize shipment of radioactive materials, limited quantity, n.o.s, and radioactive devices, n.o.s. without shipping papers. (Modes 1, 2.)
8301-N	Container Corp. of America, Wilmington, Del	49 CFR 173.119(m), 173.221(a), 173.247, 173.256, 173.264, 173.271, 173.272(g), 173.346.	To manufacture, mark and sell DOT Specification 34 polyethylene drums of 15 and 30 gallons capacity for shipment of liquid hazardous materials, classed as organic peroxides, flammable liquids, corrosive liquids or poison B. (Modes 1, 2, 3.)
8302-N	Zippo Manufacturing Co., Bradford, Penn	49 CFR 173.304(d)(3), 173.1200(a)(8).	To authorize shipment of an LPG mixture in 5.8 fluid ounce capacity containers equivalent to 2Q, without safety relief devices as an ORM-D material. (Modes 1,2.)
8303-N	Martin Marietta Chemicals, Charlotte, N.C	49 CFR 173.154	To authorize shipment of 2,4 Dinitrophenol, wet with not less than 10% water in DOT Specification 56 portable tanks. (Mode 1.)

New Exemptions—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8304-N	Sky Cab Inc., E. Brunswick, N.J	49 CFR 177.842(a)(b)	To authorize shipment of radioactive materials via motor vehicle when the combined transport index exceeds 50 but not more than 1200. (Mode 1.)
8305-N	Eldorado Chemical Co., Inc., San Antonio, Tex	49 CFR 173.245	To authorize shipment of a corrosive liquid, n.o.s., in DOT Specification MC-300 cargo tanks. (Mode 1.)
8306-N	FMC Corporation, Philadelphia, Penn	49 CFR 172.101, 173.245b	To authorize shipment of sodium sulfide as corrosive material in collapsible polyethylene-lined polypropylene bags having a capacity of approximately 2,200 pounds each. (Modes 1, 3.)
8307-N	U.S. Dept. of Energy, Washington, D.C	49 CFR 173.21, 173.247	To authorize shipment of non-pyrotechnic smoke generators consisting of cylinder reservoirs, containing titanium tetrachloride, ammonium hydroxide, an explosive valve and nitrogen. (Mode 1.)
8308-N	New England Nuclear Corp., Boston, Mass	49 CFR 177.842(a)(b)	To authorize shipment of radioactive materials via motor vehicle when the combined transport index exceeds 50 but not more than 1000 and/or the separation criteria can not be met. (Mode 1.)
8309-N	Carrier Corporation, Syracuse, N.Y	49 CFR 173.306(e)(ii)	To authorize shipment of refrigerating machines having two charged vessels containing more than 2,000 pounds of freon (group I refrigerant) but not more than 10,000 pounds. (Modes 1, 2.)
8310-N	Exxon Chemical Co., Houston, Tex	49 CFR 177.834(i)	To authorize use of a non-attended, TV monitored tank truck loading & unloading rack for shipping and receiving dilute isoprene. (Mode 1.)
8311-N	Pressed Steel Tank Co., Inc., Milwaukee, Wis	49 CFR 178.37-5	To authorize shipment of liquefied and non-liquefied non-flammable compressed gases in cylinders complying with DOT Specification 3AA except for the use of boron-treated steel. (Modes 1, 2, 3, 4.)
8313-N	Osmose Wood Preserving Co., Buffalo, NY	49 CFR 173.346(a)(27)	To authorize shipment of a poison B liquid n.o.s. in DOT Specification 57 steel portable tanks. (Modes 1, 3.)
8314-N	Barber steamship Lines Inc., New York, NY	49 CFR 176.905(1)	To authorize shipment stowage of air condition and refrigerating machinery containing a non-flammable compressed gas in same hold or compartment with motor vehicles. (Mode 3.)
8315-N	Air Products & Chemicals Inc., Allentown, Pa	49 CFR 173.314(c), Note 7	To authorize shipment of methyl chloride in DOT Specification 106A500X tanks via cargo vessel. (Mode 3.)
8316-N	Van Camp Sea Food Co., San Diego, Calif	49 CFR 173.171	To authorize shipment of fish meal containing 5% moisture in 100 pound paper bags packed in freight containers. (mode 3.)
8318-N	Stauffer Chemical co., Westport., Conn	49 CFR 173.134	To authorize shipment of pyroforic liquids n.o.s. in portable tanks meeting DOT Specifications 51 except for the ASME Stamp. (Modes 1, 2, 3.)
8319-N	Union Carbide Corp. Bound Brook, NJ	49 CFR 173.31	To authorize a one year extension of the 10 year hydorstatic retest requirement on nine DOT Specification 114A340W tank car tanks used in vinyl chloride service. (Mode 2.)
8320-N	Merck & Co., Inc, West Point, Pa	49 CFR 173.387(b)	To authorize shipment of etiologic agents in plastic bottles or bags (primary container) not to exceed 100 ml each. (Modes 1, 2, 3, 4.)
8321-N	Stauffer Chemical Co., Westport, Conn	49 CFR 173.32(e)(2)(i)	To authorize shipment of titanium tetrachloride in DOT Specification 60 portable tanks which are overdue for retest. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance in Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued at Washington, D.C., on November 15, 1979.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-35979 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes December 7, 1979.

ADDRESSED TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, D.C.

Application No.	Applicant	Renewal of exemption
3051-X	NCG Industrial Gases, Chicago, Ill	3051
3121-X	Vertac Chemical Corp., Memphis, Tenn.	3121
3188-X	Matson Navigation Company, San Francisco, Calif.	3188

Application No.	Applicant	Renewal of exemption
3293-X	Air Products and Chemicals, Inc., Allentown, Penn.	3293
3302-X	Airco Industrial Gases, Murray Hill, N.J.	3302
3302-X	Air Products and Chemicals, Inc., Allentown, Penn.	3302
3822-X	Dow Chemical Company, Midland, Mich.	3822
4007-X	Matson Navigation Company, San Francisco, Calif.	4007
4404-X	SunOlin Chemical Company, Claymount, Del.	4404
4600-X	Halocarbon Products Corp., Hackensack, N.J.	4600
4661-X	Foote Mineral Company, Exton, Penn.	4661
5526-X	Allied Chemical Corp., Morristown, N.J.	5526
5604-X	Gardner Cryogenics Corp., Bethlehem, Penn.	5604
6205-X	American LNG Company, Oak Brook, Ill.	6205
6243-X	Liquid Carbonic Corp., Chicago, Ill.	6243
6250-X	Department of the Army, Washington, D.C.	6250
6267-X	Alden Leeds, Inc., South Kearny, N.J	6267
6296-X	American Cyanamid Company, Wayne, N.J.	6296
6397-X	Harstan Chemical Corp., Brooklyn, N.Y.	6397
6523-X	FMC Corporation, Philadelphia, Penn	6523
6614-X	Continental Chemical Company, Sacramento, Calif.	6614
6616-X	Fenwal Incorporated, Ashland, Mass (See Footnote 1).	6616
6798-X	Allied Chemical Corp., Morristown, N.J.	6798
7005-X	Bignier Schmid-Laurent, Paris, France (See Footnote 2).	7005
7011-X	Advanced Chemical Technology, Camden, N.J.	7011
7046-X	J. T. Baker Chemical Company, Phillipsburg, N.J. (See Footnote 3).	7046
7071-X	Philip A. Hunt Chemical Corporation, Palisades Park, N.J. (See Footnote 4).	7071
7227-X	Air Products and Chemicals, Inc., Allentown, Penn. (See Footnote 5).	7227
7255-X	Naval Weapons Station, Concord, Calif.	7255
7512-X	Puerto Rico Marine Management, Inc., Elizabeth, N.J. (See Footnote 6).	7512
7541-X	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	7541
7584-X	Degussa Corporation, Frankfurt, Germany.	7584
7622-X	E.I. du Pont de Nemours & Co., Inc., Wilmington, Delaware.	7622
7793-X	Hooker Chemicals & Plastics Corp., Niagara Falls, N.Y. (See Footnote 7).	7793
7827-X	KemaNord Bleaching Chemicals, Stockholm, Sweden.	7827
7835-X	Air Products and Chemicals, Inc., Allentown, Penn.	7835
7846-X	Union Carbide Corporation, Tarrytown, N.Y.	7846
7876-X	Allied Chemical Corporation, Morristown, N.J. (See Footnote 8).	7876
7883-X	E.I. du Pont de Nemours & Co., Inc., Wilmington, Delaware.	7883
7901-X	Merck & Company, Inc., Rahway, N.J	7901
7901-X	Hugonnet, S.A., Paris, France	7901
7908-X	Merck & Company, Inc., Rahway, N.J	7908
7908-X	Hugonnet, S.A., Paris, France	7908
7948-X	Clark Tank & Mfg. Co., Inc., Long Beach, Calif.	7948
8111-X	Department of Energy, Washington, D.C. (See Footnote 9).	8111

[1] To authorize Bromotrifluoromethane mixed with equal amounts of monobasic ammonia phosphate charged with nitrogen as an additional commodity.

[2] To add additional tanks identical to those authorized except for location of safety vents and extensions of ISO Frame.

[3] To provide for additional destination point for shipment of perchloric acid.

[4] To renew and authorize not over 8-quart capacity inside polyethylene bottles for shipment of corrosive liquid, n.o.s.

[5] To authorize various modifications to the safety control measures pertaining to one way travel time, holding time, and venting restrictions.

[6] To authorize removal of insulation from portable tanks used for shipment of flammable & combustible liquids.

[7] To renew and to provide for portable tanks built in accordance with the Fruehauf Corporation's drawings for the shipment of a corrosive liquid, n.o.s.

[8] To authorize an additional mixed acid to be shipped described as etching acid.

[9] To provide for certain modifications affecting cylinder volumetric capacity, design pressure, and test requirements.

Application No.	Applicant	Parties of exemption
4453-P	Beaver Explosives, Inc., Edinburg, Penn.	4453
6397-P	Baird & McGuire, Inc,. Holbrook, Mass.	6397
6816-P	General Dynamics, San Diego, Calif.	6816
7023-P	J. T. Baker Chemical Co., Phillipsburg, N.J.	7023
7052-P	Sonatech, Inc., Goleta, Calif.	7052
7052-P	Wilson Greatbatch Ltd., Clarence, N.Y.	7052
7052-P	Electrochem Industries Inc., Clarence, N.Y.	7052
7269-P	Hercules, Inc., McGregor, Texas	7269
7620-P	Degussa Corp., Frankfurt, Germany	7620
7846-P	J. Ray McDermott & Co., Inc. New Orleans, La.	7846
7887-P	Canaroc Industries Ltd. Edmonton Alberta, Canada.	7887
7890-P	Mobay Chemical Corp. Pittsburgh, Penn. (See Footnote 1).	7890
8051-P	Sonoco—Mauser Containers, Ltd. Brantford, Ontario, Canada.	8051
8055-P	Associated Lead Inc. Philadelphia, Penn.	8055
8156-P	Scientific Gas Products Inc. South Plainfield, N.J.	8156
8184-P	Atlas Powder Company, Dallas, Texas.	8184
8203-P	Degussa Corp., Frankfurt, Germany	8203
8296-P	Eurotainer, Paris, France	8296
8298-P	Eurotainer, Paris, France	8298

[1] Request party status and to add rail as additional mode of transportation.

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on November 15, 1979.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-35960 Filed 11-21-79; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 182]

Service Center Directors; Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of authority.

SUMMARY: The authority vested in the Commissioner of Internal Revenue, District Directors and the Director of International Operations by 26 CFR 301.6020–1(b), 26 CFR 301.7701–9, and 26 CFR 301.7701–10, to execute returns required by any Internal Revenue law or regulation made thereunder, when the person required to file such return fails to do so, is being extended to include Service Center Directors. The text of the delegation order appears below.

EFFECTIVE DATE: December 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Charles A. Hulberg, 1111 Constitution Avenue NW., Washington, D.C. 20224, Room 7539, (202) 566–4445 (not toll free).

This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978.

J. R. Starkey.

Acting Director, Collection Division.

Date of issue: November 16, 1979.
Effective Date: December 17, 1979.

1. The authority granted to the Commissioner of Internal Revenue, District Directors, and the Director of International Operations by 26 CFR 301.6020–1(b), 26 CFR 301.7701–9, and 26 CFR 301.7701–10, to execute returns required by any internal revenue law or regulation made thereunder when the person required to file such return fails to do so, is hereby extended to include Service Center Directors.

2. This authority may be redelegated only by the Service Center Directors, District Directors, and the Director of International Operations to Revenue Agents and Revenue Officers not lower than GS–9.

Jerome Kurtz,
Commissioner.

[FR Doc. 79-35947 Filed 11-21-79; 8:45 am]

BILLING CODE 4830-01-M

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it

(1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or (b) where the service is not limited to the facilities of particular shippers, from and to, or between any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after 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.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminary 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 December 24, 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 following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 202

Decided: October 19, 1979.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

MC 65579 (Sub-2F), filed May 21, 1979. Applicant: MURRAY TRANSFER AND STORAGE COMPANY, INC., 1400 South Fifth Street, Wilmington, NC 28401. Representative: Vaughan S. Winborne, 1108 Capital Club Building, Raleigh, NC 27601. Transporting *household goods,* as defined by the Commission, between points in NC, on the one hand, and, on the other, points in AL, DE, FL, GA, MD, MA, NJ, NY, NC, PA, RI, SC, VA, WV, CT, OH, KY, LA, MS, TN, TX, and DC. Note and condition: Applicant appears to be in common control with Patterson Storage Warehouse Company, Inc., holder of a certificate of registration in MC 99096. A certificate of registration is invalid if held by a carrier in common control with another carrier operating outside of the single State involved in the certificate of registration, 49 U.S.C. § 10931 (d) (2). Accordingly, the person or persons who appear to be engaged in common control of applicant and Patterson Storage Warehouse Company, Inc., must file an application for approval of the common control under 49 U.S.C. § 11343 (a), *and* file an application for conversion of the certificate of registration to one of public convenience and necessity, or submit an affidavit indicating why such approval is unnecessary. Failure to file the conversion application will not prevent issuance of a certificate here but will render the certificate of registration invalid if common control does exist. (Hearing site: Wilmington, or Raleigh, NC.)

MC 73688 (Sub-89F), filed May 21, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, P.O. Box 7195, Memphis, TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. Transporting *aluminum ingots,* from Gum Springs, (Clark County) and Jones Mill, AR, to Listerhill, AL. (Hearing site: Little Rock, AR, or Memphis TN.)

MC 103798 (Sub-42F), filed May 21, 1979. Applicant: MARTEN TRANSPORT, LTD., Rural Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 100 First National Bank,

Minneapolis, MN 55402. Transporting *foodstuffs* (excet commodities in bulk), from Madison, WI, to points in IN. (Hearing site: Minneapolis, MN.)

Note.—Dual Operations may be involved.

MC 108119 (Sub-158F), filed May 21, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting (1) *contractors' and industrial equipment, and self- propelled articles,* and (2) *parts, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Joy Manufacturing Company at (a) Franklin, PA, (b) Birmingham, AL, (c) Claremont, NH, (d) Buffalo, NY, (e) Michigan City, IN, (f) Wilson, NC, (g) New Philadelphia, OH, (h) Colorado Springs and Denver, CO, and (i) Wheeling, WV, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 114569 (Sub-312F), filed May 21, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 10 17072. Representative: David R. Parker (same address as applicant). Transporting *such commodities* as are dealt in by retail stores (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Gamble Skogmo, Inc. (Hearing site: St. Paul, MN, or Washington, DC.)

Note.—Dual operations may be involved.

MC 123329 (Sub-49F), filed May 21, 1979. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Ray F. Koby, 314 Montant Building, Great Falls, MT. 59401. To operate as a *common carrier,* by motor vehicle, in foreign commerce only, over irregular routes, transporting *cement,* in bulk, in tank vehicles, between points in Whatcom County, WA, on the one hand, and, on the other, the ports of entry on the International Boundary Line between the United States and Canada located in WA. (Hearing site: Great Falls, MT.)

Note.—Dual operations may be involved.

MC 124078 (Sub-966F), filed May 21, 1979. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Transporting *vegetable oils,* and *blends of vegetable oils,* between Louisville, KY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cleveland, OH.)

Note.—Dual operations may be involved.

MC 140829 (Sub-316F), filed May 18, 1979. Applicant: CARGO, INC, P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David King (same address as applicant). Transporting (1) *wire, cable, and tape,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), from the facilities used by Brand-Rex Company, at or near Willimantic, CT, to points in AR, IL, and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-317F), filed May 18, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David King (same address as applicant). Transporting *animal feed* (except in bulk, in tank vehicles), from the facilities used by Hi-Life Packing Company, at or near Holland and Hamilton, MI, to points in CO, MO, NJ, NY, PA, and TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 143739 (Sub-14F), filed May 21, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *such commodities* as are dealt in or used by grocery and food business houses, (1) between the facilities of Ralston Purina Company, at or near (a) Battle Creek, MI, and (b) Sharonville, OH, and (2) between the facilities of Ralston Purina Company, at or near Clinton and Davenport, IA, on the one hand, and, on the other, points in IN, KY, MI, MN, MO, OH, and WI. (Hearing site: St. Louis, MO, or St. Paul, MN.)

MC 144549 (Sub-6F), filed May 21, 1979. Applicant: PITTSVILLE SERVICE, INC., 146 Daniels Avenue, Pittsfield, MA 01201. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood flour,* in bulk, between the facilities of the General Electric Company, at or near Pittsfield, MA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA (except the St. Louis, MO-East St. Louis, IL, commercial zone), under continuing contract(s) with Genal Products Business Section, Plastics Division, General Electric Company, of Pittsfield, MA. (Hearing site: Albany, NY, or Boston, MA.)

MC 144688 (Sub-24F), filed May 21, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *cleaning, scouring, and washing compounds, industrial maintenance supplies, and such commodities as* are dealt in by drug, grocery, and food business houses, (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, (except commodities in bulk), (a) from the facilities of The Proctor & Gamble Company, at or near Cincinnati, OH, to points in NC, SC, and GA, and (b) between points in AL, FL, GA, NC, SC, and TN, restricted in (b) above to the transportation of traffic originating at or destined to the facilities used by the Proctor & Gamble Company, The Proctor & Gamble Manufacturing Company, The Proctor & Gamble Paper Products Company, and The Buckeye Cellouse Corporation. (Hearing site: Cincinnati, OH, or Atlanta, GA.)

Note.—Dual operations may be involved.

MC 146838 (Sub-2F), filed May 21, 1979. Applicant: NOBLE EXPRESS, INC., Route 3, Box 211A, Noblesville, IN 46060. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46203. To operate as a *contract carrier,* by motor vehicle, in interestate or foreign commerce, over irregular routes, transporting (1) *paper and paper products,* except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture, processing, sale, and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of R. R. Donnelley & Sons Co., at or near (a) Glasgow, KY, (b) Mattoon, IL, and (c) Crawfordsville, and Warsaw, IN, on the one hand, and, on the other, points in AZ, CA, CO, FL, OK, OR, TX, GA, NM, NV, UT, ID, WY, and WA, under continuing contract(s) with R. R. Donnelley & Sons Co., of Chicago, IL. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 147438B, filed May 21, 1979. Applicant: SULLIVAN TRUCKING CO.,

INC., P.O. Box 235, Warsaw, KY 41095. Representative: Herbert D. Liebman, P.O. Box 478, Frankfort, KY 40602. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foundry facing and ground bituminous coal*, from Cincinnati, OH, to points in Jefferson and Boyle Counties, Ky, under continuing contract(s) with The Hill and Griffith Company, of Cincinnati, OH. (Hearing site: Frankfort, KY.)

Volume No. 205

Decided: October 19, 1975.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 26739 (Sub-103F), filed May 21, 1979. Applicant: ALFARM TRUCKLINES, a corporation, 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting *such commodities* as are dealt in or used by manufacturers and dealers of agricultural equipment and machinery, industrial equipment and machinery, lawn care products and leisure products (except commodities in bulk), (1) between the facilities of John Deere & Company at (a) Rock Island City, IL, and (b) points in Black Hawk, Dubuque, Polk, Scott, and Wapello Counties, IA, on the one hand, and, on the other, points in KS, MO, and OK, and (2) between points in KS, MO, and OK, restricted in (1) above to the transportation of traffic originating at or destined to the facilities of John Deere & Company and further restricted in (2) above to the transportation of traffic originating at or destined to the facilities of John Deere & Company dealers. (Hearing site: Chicago, IL, or St. Paul, MN.)

MC 55889 (Sub-52F), filed May 22, 1979. Applicant: AAA COOPER TRANSPORTATION, a corporation, P.O. Box 6827, Dothan, AL 36302. Representative: Kim D. Mann, 7101 Wisconsin Ave., Washington, DC 20014. 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 Atlanta, GA, and Birmingham, AL, over U.S. Hwy 78, serving no intermediate points, (2) between Atlanta, GA, and Birmingham, AL, over Interstate Hwy 20, serving no intermediate points, (3) between Atlanta, GA, and Montgomery, AL, over Interstate Hwy 85, serving Opelika, AL, as an intermediate point, (4) from Atlanta, GA, over U.S. Hwy 29 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Montgomery, AL, and return over the same route, serving Opelika, AL, as an intermediate point, (5) between Birmingham, AL, and New Orleans, LA, over U.S. Hwy 11, serving all intermediate points in MS between and including Laurel and Picayune, (6) from Birmingham, AL, over Interstate Hwy 59 to junction Interstate Hwy 10, then over Interstate Hwy 10 to New Orleans, and return over the same route, serving all intermediate points in MS between and including Laurel and Picayune, (7) from Mobile, AL, over U.S. Hwy 98 to junctions MS Hwy 15, then over MS Hwy 15 to Laurel, and return over the same route, (8) from Mobile, AL, over U.S. Hwy 45 to junction U.S. Hwy 84, then over U.S. Hwy 84 to Laurel, MS, and return over the same route, (9) between Mobile, AL, and New Orleans, LA, over U.S. Hwy 90 (10) between Mobile, AL, and New Orleans, LA, over Interstate Hwy 10, (11) between Hattiesburg and Gulfport, MS, over U.S. Hwy 49, (12) between Hattiesburg, MS, and junction U.S. Hwy 98 and MS Hwy 15, over U.S. Hwy 98, (13) between Montgomery, AL, and junction U.S. Hwy 80 and Interstate Hwy 59 over U.S. Hwy 80, (14) between Waynesboro, MS, and junction U.S. Hwy 84 and AL Hwy 21, at or near Monroeville, over U.S. Hwy 84, serving routes in (7) through (14) above (a) all intermediate points in MS, and (b) points in Jones, Wayne, Lamar, Forrest, Perry, Greene, Stone, George, Pearl River, Hancock, Harrison, and Jackson Counties, MS, as off-route points, restricted in routes (5) through (14) above against providing service (except tacking) (a) between points in MS, (b) between points Mobile, AL, and points in MS, and (c) between New Orleans, and points in MS. (Hearing site: Atlanta, GA, or Birmingham, AL.).

Note.—Applicant intends to tack this with its otherwise authorized regular irregular route authority.

MC 108119 Sub 135F, filed May 2, 1979. Applicant: E. L MURPHY TRUCKING COMPANY, INC., P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting *dust collectors, air coolers, fans, blowers*, (2) *parts, attachments, and accessories* for the commodities in (1) above, (except commodities in bulk), and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) and (2) above, between the facilities of Pneumafil Company, in Mecklenburg County, NC, on the one hand, and, and on the other, points in the United States (except AK and HI). (Hearing site: Charlotte, NC, or Columbia, SC.)

MC 112188 (Sub-188F), filed May 21, 1979. Applicant: MC BREEN TRUCKING, INC., 3641 NW Front Avenue, Portland, OR 97210. Representative: Lawrence V. Smart, Jr., 419 W NW 23rd Avenue, Portland, OR 97210. Transporting *magazines, paperback books, periodicals, and printed matter*, between points in OR and WA. (Hearing site: Portland, OR.)

MC 112989 (Sub-101F), filed May 21, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., (same address as applicant). Transporting (1) *fireplaces, dampers, air heaters, ventilators stoves, boilers, grates, cookers, and grills*, (2) *accessories* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between the facilities of Whittier Steel & Manufacturing, Inc., at or near Santa Fe Springs, CA, and Shelbyville, KY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Los Angeles, CA.)

MC 124078 (Sub-967F), filed May 21, 1979. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Transporting *chemicals*, in bulk, in tank vehicles, from the facilities of Monsanto Co., at or near Chocolate, Bayou, Texas City, and Houston, TX, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: St. Louis, MO.)

Note.—Dual operations may be involved.

MC 127278 (Sub-6F), filed May 14, 1979. Applicant: PACIFIC VAN & STORAGE CO., INC., P.O. Box 2990, Torrance, CA 90509. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Washington, DC 20036. Transporting *household goods* as defined by the Commission, between points in CA, AZ, NV, WA, NM, and UT, and OR. (Hearing site: Los Angeles, CA.)

MC 128648 (Sub-22F), filed May 21, 1979. Applicant: TRANS-UNITED, INC., 425 West 152nd Street, East Chicago, IL 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *metal articles*, from the

facilities of Modulus Corporation, at Gary IN, to points in the United States (except AK and HI), under continuing contract(s) with Modulus Corporation, of Radnor, PA. (Hearing site: Chicago, IL.)

MC 138279 (Sub-14F), filed May 21, 1979. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, 200 Conalco Drive, Jackson, TN 38301. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *copper articles, copper sulfate, and chemicals* (except commodities in bulk, in tank vehicles), and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1)(a) above (except commodities in bulk, in tank vehicles), between Maspeth, NY, on the one hand, and, on the other, those points in the United States (except AK and HI); and (2)(a) *cable and copper articles* and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (2)(a) above, (except commodities in bulk, in tank vehicles), (i) between Los Angeles, CA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, NE, KS, OK, and TX, and (ii) between DeQuoin, IL, Starkville, MS, and Elizabeth and Yonkers, NY, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) in (1) above with Phelps Dodge Refining Corporation, of New York, NY, and in (2) above with Phelps Dodge Industries, Inc., of New York, NY. (Hearing site: Washington, DC, or New York, NY.)

Note.—Dual operations may be involved.

MC 141439 (Sub-2F), filed March 23, 1979. Applicant: HILL TRUCK LINE, INC., 1116 South 6, P.O. Box 6291, Elmwood Park Station, Omaha, NE 68106. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except 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 Omaha, NE, and Kansas City, MO, over Interstate Hwy 29, serving St. Joseph, MO, as an intermediate point, and (2) between Omaha, NE, and Kansas City, MO, over U.S. Hwy 73, serving Falls City, Verdon, and Dawson, NE, as intermediate points and serving points in Nemaha, Marshall, and Pottawattamie Counties, KS, as off-route points. (Hearing site: Omaha, NE.)

Note.—The purpose of this application is to convert the irregular route authority in MC 141439 to regular route authority.

MC 141759 (Sub-12F), filed May 21, 1979. Applicant: OHIO PACIFIC EXPRESS, INC., 2385 South High Street, Columbus, OH 43207. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *printed matter, and materials, equipment, and supplies* used in by printing firms, between Chicago, IL, Dresden, TN, and Corinth, MS; and (2) *printed matter*, from Chicago, IL, Dresden, TN, and Corinth, MS, to points in AR, CO, LA, MS, OK, and TX, under continuing contract(s) with W. F. Hall Printing Company, of Chicago, IL. (Hearing site: Chicago, IL.)

MC 144069 (Sub-11F), filed May 21, 1979. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. Transporting *erection equipment, and materials, equipment, and supplies* used in the construction of erection equipment, (1) between the facilities of Ceco Corporation, at or near Muirkirk, MD, on the one hand, and, on the other, points in NC and VA, and (2) between points in NC, on the one hand, and, on the other, points in VA. (Hearing site: Charlotte, NC, or Raleigh, NC.)

MC 144688 (Sub-18F), filed April 30, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *such commodities* as are dealt in by chain, grocery and food business houses (except frozen foods and commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above (except commodities in bulk), from points in GA, to the facilities of Colgate-Palmolive Company, Inc., at or near Jefferson, IN, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination. (Hearing site: Jeffersonville, IN, or Omaha, NE.)

MC 144688 (Sub-20F), filed April 30, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *household cleaning products, water purifying compounds, and dry acids*, (except commodities in bulk), from the facilities of Purex Corporation, at or near Auburndale, FL, to Atlanta, GA; (2) *industrial and institutional cleaning supplies* (except commodities in bulk), from the facilities of Purex Corporation, at or near Houston, TX, to Atlanta, GA, and Tampa, FL; (3) *parts, materials, equipment and supplies* used in the manufacture, sale, and distribution of the commodities in (1) and (2) above, (except commodities in bulk), from Houston, TX, and Atlanta, GA, to the facilities of Purex Corporation, at or near Auburndale, FL, restricted in (1), (2), and (3) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Carson, CA, or Atlanta, GA.)

MC 145468 (Sub-11F), filed May 14, 1979. Applicant: K.S.S. TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Transporting *beverages, and materials, equipment, and supplies* manufacture and distribution of beverages, between Spencer, IA, on the one hand, and, on the other, points in IL, KS, MN, MO, and WI. (Hearing site: Omaha, NE, or Des Moines, IA.)

Note.—Dual operations may be involved.

MC 145588 (Sub-13F), filed May 21, 1979. Applicant: GULF MID-WESTERN, INC., 12151 West 44th Avenue, Denver, CO 80033. Representative: William W. Selman, 18700 John F. Kennedy Blvd., Houston, TX 77205. Transporting *chemicals*, from Brownsville, Corpus Christi, Harlingen, and Kingsville, and points in Brazoria, Lavaca, Harris, Jefferson, Orange, Montgomery, and Galveston Counties, TX, to points in the United States (except AK and HI). (Hearing site: Denver, CO, or Omaha, NE.)

MC 146269 (Sub-2F), filed May 21, 1979. Applicant: WALDORF TRANSPORTATION CO., INC., P.O. Box 353, Waldorf, MD 20601. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Transporting *malt beverages*, from Philadelphia, PA, and Baltimore, MD, to Hampton, Newport News, Norfolk, Chesapeake, Virginia Beach, Suffolk, and Portsmouth, VA, and points in Gloucester County, VA, (Hearing site: Norfolk, Va.)

Note.—Dual operations may be involved.

Volume No. 206

Decided: October 25, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 1824 (Sub-96F), filed May 30, 1979. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Thomas M. Auchincloss, Jr., 918 16th St., NW., Washington, DC 20006. 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 Hagerstown, MD, and Wytheville, VA, over Interstate Hwy 81, serving all intermediate points, and serving those points in VA on bounded by a line beginning at the DC–VA State line and extending along U.S. Hwy 29 to the VA–NC State line, then west over the VA–NC State line to junction Interstate Hwy 77, then north along Interstate Hwy 77 to the VA–WV State line, then east along the VA state line to point of beginning; and (2) between Washington, DC, and Danville, VA, over U.S. Hwy 29, serving all intermediate points and serving the off-route points described in (1) above, and points within 10 miles of U.S. Hwy 29, east of U.S. Hwy 29. (Hearing site: Washington, DC.)

MC 8544 (Sub-36F), filed May 20, 1979. Applicant: GALVESTON TRUCK LINE CORPORATION, 7415 Wingate, Houston, TX 77011. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, Houston, TX 77002. Transporting (1) *petroleum and petroleum products*, in containers, and (2) *automotive supplies* (except commodities in bulk), from Ponca City, OK, to those points in TX on and east of a line beginning at the OK–TX State line and extending along U.S. Hwy 83 to junction U.S. Hwy 277, then along U.S. Hwy 277 to the international boundary line between the United States and Mexico, at or near Del Rio, TX. (Hearing site: Houston, TX.)

MC 14215 (Sub-40F), filed May 29, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 W. Fifth Ave., P.O. Box 12241, Columbus, OH 43212. Transporting (1) *iron and steel articles*, from Steubenville, OH, to points in MD, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), in the reverse direction. (Hearing site: Columbus, OH, or Washington, DC.)

MC 61825 (Sub-101F), filed May 29, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). Transporting (1)(a) *containers, glassware, container components*, and *scrap materials*, and (b) *material, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1)(a) above (except commodities in bulk, in tank vehicles, and those which because of size and weight require the use of special equipment), 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 Midland Glass Company, Inc.; and (2) *glass containers and container accessories*, from the facilities of Libbey Glass, Division of Owen-Illinois, Inc., at (a) Shreveport, LA, and (b) Toledo, OH, to points in AL, DE, FL, GA, MD, MS, NJ, NY, NC, PA, SC, TN, VA, WV, and DC. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication. (Hearing site: Washington, DC.)

MC 61825 (Sub-102F), filed May 29, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, Post Office Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). Transporting *citrus products, citrus by-products, beverages, and beverage preparations, in containers*, from points in Lake, Manatee, Orange, Polk and Saint Lucie Counties, FL, to points in MD, IL, IN, KY, OH, VA, WV, TN, PA, and DC. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication. (Hearing site: Washington, DC.)

MC 61825 (Sub-103F), filed May 30, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, Post Office Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). Transporting *dry animal feed (except in bulk)*, from Red Bay, AL, and Tupelo, MS, to points in FL, KY, MD, NC, OH, PA, VA, WV, and DC. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication. (Hearing site: Washington, DC.)

MC 85934 (Sub-108F), filed May 31, 1979. Applicant: MICHIGAN TRANSPORTATION COMPANY, a corporation, 3601 Wyoming, P.O. Box 248, Dearborn, MI 48120. Representative: Edwin M. Snyder, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. Transporting *chemicals*, in bulk, from Detroit, MI, to points in OH, IN, IL, TX, WI, and PA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 95084 (Sub-142F), filed May 30, 1979. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, 1501 East Main Street, Ottumwa, IA 52501. Transporting *wire, wire products, fence* and *fencing materials*, between the facilities of Bekaert Steel Wire Corporation, at Van Buren, AR, on the one hand, and, on the other, points in IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, ND, OH, PA, SD, VA, WV, WI and WY. (Hearing Site: Little Rock, AR or Kansas City, MO.)

MC 106674 (Sub-390F), file May 29, 1979. Applicant: SCHILLI MOTOR LINES, INC. P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting *fibrous glass products, fibrous glass materials, mineral wool, mineral wool products, insulated air ducts, insulating products, insulating materials, and flexible air ducts*, (except commodities in bulk), (1) from Kansas City and Pauline, KS, to points in AR, KY, LA, TN, IN, and IL, and (2) from Mountaintop, PA, to points in KY, TN, MO, IL, and IN. (Hearing site: Chicago, IL or Indianapolis, IN.)

MC 107605 (Sub-23F), filed May 22, 1979. Applicant: ADVANCE–UNITED EXPRESSWAYS, INC., 2601 Broadway Rd. N.E., Minneapolis, MN 55413. Representative: William S. Rosen, 630 Osborn Bldg., St. Paul, MN 55102. 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, households goods

as defined by the Commission, commodities in bulk, and those requiring special equipment), between Mora, MN, and Fort Worth, TX, from Mora over MN Hwy 65 to its junction with Interstate Hwy 35; then over Interstate Hwy 35 to Fort Worth, and return over the same route, serving the intermediate and off-route points of Cambridge and Isanti, MN, Kansas City, MO, and Kansas City, KS. (Hearing site: St. Paul, MN.)

MC 111274 (Sub-44F), filed May 30, 1979. Applicant: SCHMIDGALL TRANSFER INC., P.O. Box 356, Morton, Il 61550. Representative: Federick C. Schmidgall (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials* used in the installation and erection of pole buildings and panel buildings, (1) between points in IA, IL, MI, MS, AR, AL, WA, and OR, and (2) between ports of entry on the international boundary line between the United States and Canada in WA and MT, on the one hand, and, on the other, Allenton, WI, under continuing contract(s) with Jack Walters and Sons Corporation, of Allenton, WI. (Hearing site: Chicago, or Springfield, IL.)

MC 113784 (Sub-86F), filed May 31, 1979. Applicant: LAIDLAW TRANSPORT LIMITED, a corporation, 65 Guise St., Hamilton, Ontario, Canada L8L 4M1. Representative: David A. Sutherland, 1150 Connecticut Ave., NW, Suite 400, Washington, DC 20036. Transporting (1) *building materials*, and (2) *accessories and supplies* used in the installation and erection of building materials, between ports of entry on the international boundary line between the United States and Canada, on the Niagara River, on the one hand, and, on the other, the facilities of National Gypsum Company, at Niles, OH. (Hearing site: Buffalo, NY.)

MC 113855 (Sub-489F), filed May 29, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE, Rochester, MN 55901. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. Transporting: (1) *Grinding machines, metal fabrications*, and *metal* and *metal articles*, (2) *parts* for the commodities in (1) above, and (3) *materials, equipment* and *supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between points in Worcester County, MA, on the one hand, and, on the other, points in the United States (including AK but excluding HI). (Hearing site: Washington, DC.)

MC 116254 (Sub-272F), filed May 21, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). Transporting *chemicals*, in bulk, in tank vehicles, from points in Iberia Parish, LA, to points in AL, FL, GA, MS, and TN. (Hearing site: New Orleans, LA, or Washington, DC.)

MC 118535 (Sub-141F), filed May 29, 1979. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Bulter, MO 64730. Representative: Wilburn L. Williamson, The Oil Center, Suite 615E, 2601 N. W. Expressway, Oklahoma City, OK 73112. Transporting (1) *non-ferrous metals, non-ferrous scrap*, and *junk batteries*, (a) from points in TX to points in AR, AZ, CA, CO, IA, IL, IN, KS, KY, MN, MO, MS, ND, NE, LA, NM, OK, SD, TN, and WI; (b) from points in LA to points in AR, AZ, CA, CO, IA, IL, IN, KS, KY, MN, MO, MS, ND, NE, NM, OK, SD, TN, TX, and WI; and (c) from the facilities of Schulkill Metals Corp., at or near, Forest City, (Holt County), to points in CA, and (2) *whole junk batteries, burned-out battery plates, drosses and residues*, from points in AR, AZ, CO, KS, IA, IL, IN, LA, MN, MO, ND, NM, OH, OK, SD, TN, WI, and WY, to the facilities of Gould, Inc., Metals Division, at Frisco, TX, and Omaha, NE. (Hearing site: Kansas City, MO.)

MC 120364 (Sub-21F), filed May 30, 1979. Applicant: A & B FREIGHT LINE, INC., 2800 Falund St., Rockford, IL 61109. Representative: Robert M. Kaske (same address as applicant). Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between Chicago, Elizabeth, Sayanna, Round Lake, Woodbine, Apple River, Waukegan, Hanover, North Chicago, Galena, Scales Mounds, and those points in IL bounded by a line beginning at the IL–WI State line and extending on IL Hwy 78 to junction IL Hwy 88, then along IL Hwy 88 to junction IL Hwy 92, then easterly along IL Hwy 92 to junction U.S. Hwy 34, then easterly along U.S. Hwy 34 to junction IL Hwy 59, then northerly along IL Hwy 59 to junction IL Hwy 83 then along IL Hwy 83 to the IL–WI State line, then west along the State line to point of beginning, on the one hand, and, on the other, points in Brown, Calumet, Dane, Dodge, Fond du Lac, Green, Jefferson, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outogamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha, and Winnebago Counties, WI. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 123255 (Sub-209), filed May 30, 1979. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road., Newark, OH 43055. Representative: C. F. Schnee, Jr., 1984 Coffman Road., Newark, OH 43055. Transporting (1) *plastic and plastic articles, mineral fiber and mineral fiber products, glass fiber and glass fiber products, air filters, wood fiber products, and materials, paint, building materials, equipment* and *supplies* used in the manufacture, distribution and installation of the foregoing commodities (except commodities in bulk), between the facilities of the United States Gypsum Company, at or near, (a) Danville, VA (b) Greenville, MS, (c) Birmingham, AL, (d) Gypsum, OH, (e) Milwaukee and Walworth, WI, and (f) Wabash, IN, on the one hand, and, on the other, points in and east of MN, IA, MO, AR, and LA; (2) *adhesives, cement compounds, caulking compounds, cleaning and polishing compounds and solutions, emulsions used as a mixing material, latex solutions, mastic material, sealing primer, solvents*, (except commodities in bulk, in tank vehicles, and those which require the use of special equipment), and (3) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (2) above, (except commodities in bulk, in tank vehicles, and those which require the use of special equipment), between the facilities of Durabond Products Co., at Chicago, IL, on the one hand, and, on the other, points in and east of MN, IA, MO, AR, and LA. (Hearing site: Columbus, OH.)

MC 123294 (Sub-66F), filed May 30, 1979. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting *paper and paper products*, from the facilities of Olinkraft, Inc., at or near Owosso, MI, to points in IL, IN, and OH. (Hearing site: Chicago, IL).

MC 126514 (Sub-57F), filed May 29, 1979. SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Road, Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Transporting *plastic liquid, plastic articles, chemicals, cleaning and scouring compounds, defoaming compounds, laminating machinery* and *parts, ink, paper, solvents, pallets* and *empty containers* (except commodities in bulk), between points in Orange County, CA, on the one hand, and, on the other,

points in IL, IN, MA, NJ, NY, NC and VA. (Hearing site: Los Angeles, CA.)

MC 135874 (Sub-170F), filed May 29, 1979. Applicant: LTL PERISHABLES, INC., 550 East 5th St. So., So. St. Paul, MN 55075. Representative: Paul Nelson (same address as applicant). Transporting *such commodities* as are dealt in by grocery and food business houses, (except commodities in bulk, in tank vehicles), between points in IN, IL, IA, KS, KY, MA, MI, MN, MO, NC, ND, NE, NY, OH, PA, SD, TN, VA, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 135895 (Sub-63F), filed April 13, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynne, P.O. Box 1295, Greenville, MS 38701. Transporting (1) *metal container* and *plastic containers*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Standard Container Corporation, at or near (a) Atlantic, Homerville and Valdosta, GA, (b) Jacksonville, FL, and (c) Picayune, MS, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Jackson, MS.)

MC 135895 (Sub-64F), filed April 24, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 9534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 39701. Transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds* (except commodities in bulk, in tank vehicles), and *filters*, from the facilities of Quaker State Oil Refining Corporation, in Warren County, to points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, and TX; and (2)(a) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and filters*, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (excpet commodities in bulk, in tank vehicles), from points in LA, GA, and SC, to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Vicksburg or Jackson, MS.)

MC 136035 (Sub-13F), filed May 30, 1979. Applicant: TREADWAY CARRIERS, 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 or foreign commerce, over irregular routes, transporting *plastic articles*, and *sheet steel articles*, from Columbiana, Middlefield, and Shelby, OH, to points in the United States (except AK and HI), under continuing contract(s) with Ballonoff Home Products, a dvision of Pentron Industries, Inc., of Beachwood, OH. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carried must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication. (Hearing site: Indianapolis, IN, or Cleveland, OH.)

MC 136035 (Sub-14F), filed May 30, 1979. Applicant: TREADWAY CARRIERS, 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 or foreign commerce, over irregular routes, transporting, *(1) cement and adhesives, and (2) materials and supplies* used in the manufacture and distribution of cement and adhesives, (except commodities in bulk, in tank vehicles), between Freeport, NY, on the one hand, and, on the other, points in IL, IN, KY, MI, OH, and WI, under continuing contracts(s) with Columbia Cement Co., Inc., of Freeport, NY. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication. (Hearing site: Indianapolis, IN, or New York, NY.)

MC 136034 (Sub-15F), filed May 30, 1979. Applicant: TREADWAY CARRIERS, 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 or foreign commerce, over irregular routes, transporting, *sailboats and sailboat parts*, from Waterbury, CT, to points in the United States (except AK and HI), under continuing contract with AMF Alcort/Paceship Division, of Waterbury, CT. (Hearing site: Indianapolis, IN.)

Note.—Dual operations may be involved.

MC 141804 (Sub-229F), filed May 30, 1979. Applicant: WESTERN EXPRESS, Division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *dried noodles*, and *materials and supplies* used in the distribution of dried noodles, from Gardena, CA, to those points in the United States in and east of MN, IA, MO, LA, and AR. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-230F), filed May 30, 1979. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *paint, resin, coal tar, and petrochemicals*, (except commodities in bulk), from the facilities of Schenectady Chemical, at Schenectady and Rotterdam, NY, to points in CA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 151804 (Sub-233F), filed May 30, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 97161. Representative: Frederick J. Coffman (same address as applicant). Transporting *alcoholic beverages* (except in bulk), from points in NJ and NY, to points in CA, AZ, NV, WA, OR, UT, and CO. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-235F), filed May 30, 1979. Applicant: WESTERN EXPRESS, Division of INTERSTATE RENTAL, INC., P.O. Box 3488 Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *bags* and *bagging material*, from Nashville, TN, to points in WA, OR, CA, AZ, NM, and UT. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142114 (Sub-7F), filed May 31, 1979. Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, MA 01824. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail department stores (except commodities in bulk and frozen foodstuffs), between points in CT, DE, IN, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, TN, and VA, under continuing contract(s) with King's Department Stores, Inc., of Newton, MA. (Hearing site: New York, NY, or Washington, DC.)

MC 142114 (Sub-9F), filed May 30, 1979. Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, MA 01824. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. To operate

as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail department stores (except commodities in bulk, and frozen foodstuffs), (1) from Jersey City, NJ, to Pawtucket, RI, and Braintree, MA, (2) from Braintree, MA, to Silver Spring, MD, and (3) from Silver Spring, MD, to Jersey City, NJ, under continuing contract(s) with Outlet Specialties Stores, Inc., of Pawtucket, RI. (Hearing site: New York, NY, or Washington, DC.)

MC 143775 (Sub-96F), filed May 24, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *pesticides* (except in bulk), in vehicles equipped with mechanical refrigeration, from Kansas City, MO, to points in AZ, CA, CO, ID, NM, NV, MT, OR, UT, WA, and WY. (Hearing site: Kansas City, MO, or Washington, DC.)

Note.—Dual operations may be involved.

MC 143775 (Sub-97F), filed May 29, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of or used by East-West Shippers Associations, at or near Chicago, IL, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named facilities. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 143775 (Sub-98F), filed May 24, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Northeastern Pennsylvania Shippers Association, in Broome and Chemung Counties, NY, and Lackawanna, Lehigh, Luzerne, Northampton and Wayne Counties, PA, to points in IL, MO, TX, CA, WA, OR, CO, MN, WI, GA, FL, MI, and NE. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 143775 (Sub-101F), filed May 31, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in vehicles equipped with mechanical refrigeration, from the facilities of Nationwide Shippers Cooperative Association, at Cincinnati, OH, to points in AZ, CA, CO, FL, GA, ID, KS, MD, MN, MO, NY, NV, OR, PA, TX, UT, VA, OK, and WA, restricted to the transportation of traffic originating at the named origin. (Hearing site: Columbus, OH, or Washington, DC.)

Note.—Dual operations may be involved.

MC 144884 (Sub-6F), filed May 30, 1979. Applicant: ARTHUR E. JOHNSTON & MICHAEL A. JOHNSTON, d.b.a. JOHNSTON TRUCKING, P.O. Box 325, Spearfish, SD 57783. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. Transporting *iron and steel articles* from the facilities of Jones & Laughlin Steel Corporation, at Youngstown, OH, to points in CO, ID, IA, MN, ND, SD, UT and WY. (Hearing site: Pittsburgh, PA, or Youngstown, OH.)

Note.—Dual operations may be involved.

MC 145384 (Sub-36F), filed May 29, 1979. Applicant: ROSE-WAY, INC., 1914 East Euclid Avenue, Des Moines, IA 50306. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *iron and steel articles*, from the facilities of Inland Steel Company, at East Chicago, IN, to points in IA, MN, MO and NE, and points in Adams, Rock Island and Whiteside Counties, IL, restricted to the transportation of traffic originating at the above-name origin. (Hearing site: Chicago, IL.)

MC 145724 (Sub-1F), filed May 25, 1979. Applicant: HASTINGS TRANSPORTATION, INC., East on Hwy 6, Hastings, NE 68901. Representative: Thomas H. Dahlk, 1000 Woodmen Tower, Omaha, NE 68102. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *aluminum products*, from Hastings, NE, and Powell, WY, to points in the United States (except AK and HI); and (b) *aluminum* and *aluminum materials*, from Oswego, NY, Lancaster, PA, Lewisport and Hawesville, KY, Davenport, IA, Terre Haute, IN, McCook, IL, and Omal, OH, to Hastings, NE, and Powell, WY, under continuing contract(s) with Hastings Irrigation Pipe Company, of Hastings, NE; (2) *oil*, in containers, and *grease products*, from Oil City and Bradford, PA, Kansas City, KS, Oklahoma City, OK, and Houston and Port Arthur, TX, to points in NE, under continuing contracts(s) with Major Oil Co., and Thomsen Oil Co., both of Hastings, NE; and (3) *lumber* and *building products*, from (a) Custer, SC, Worland, WY, Eugene, OR, Hood River, OR, Lakewood, CO, Billings, MT, and Yakima, and Wenatchee, WA, to points in NE, under continuing contract(s) with Golden Triangle Lumber Co., Inc., of Hastings, NE; and (b) from Dallas, Corrigan, New Waverly, Nacogdoches, Jasper, and Lufkin, TX, Winnfield, Natchitoces, Urania, Dodson, Ruston, Minden, Plain Dealing, and Hammond, LA, and Crossett, AR, to Council Bluffs and Moulton, IA, Stanberry, Milan, Maryville, Clifton, Hill, and Kansas City, MO, Topeka, Wichita, and Salina, KS, and points in NE, under continuing contract(s) with American Paneling Factory Outlet, Inc., of Nederland, TX. (Hearing site: Omaha or Lincoln, NE.)

MC 146484 (Sub-2F), filed May 21, 1979. Applicant: F. J. CRIKOS TRUCKING, INC., 141 Helman Lane, Cotati, CA 94928. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, from the facilities of Quaker Chemical Corporation, at Pomona, CA, to points in OR and WA, under continuing contract(s) with Quaker Chemical Corp., of Pomona, CA. (Hearing site: San Francisco, CA, or Spokane, WA.)

MC 146725 (Sub-2F), filed May 29, 1979. Applicant: FREEPORT TRANSPORT, INC., P.O. Box 1275, Freeport Center, Clearfield, UT 84016. Representative: Bruce W. Shand, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting (1) *copper* and *copper articles*, (2) *molybdenum concentrates* and *molybdic oxides*, and (3) *materials, equipment, and supplies* used in the mining and manufacture of copper, (except commodities in bulk), between the facilities of Kennecott Copper Corporation, at or near (a) Garfield, UT, (b) Hurley, NM, and (c) Hayden, AZ, on the one hand, and on the other, points in the United States. (Hearing site: Salt Lake City, UT.)

Note.—Dual operations may be involved.

MC 146804 (Sub-1F), filed May 24, 1979. Applicant: R. J. WRIGHT & SONS, R.R. 3, Box 259, Portland, IN 47371. Representative: Royce Wright (same address as applicant). Transporting *fertilizer* and *fertilizer ingredients*, between points in IN and OH. (Hearing

site: Indianapolis, IN, or Cincinnati, OH.)

MC 147354 (Sub-2F), filed May 30, 1979. Applicant: FAUBION TRUCK LINES, INC., P.O. Box 5795, Stockguard Rd., Baton Rouge, LA 70821. Representative: James S. Holliday, Jr., One American Place, Suite 1800, Baton Rouge, LA 70825. Transporting *beef*, from Amarillo, Hereford, Plainview, and Friona, TX, to Slidell, LA. (Hearing site: New Orleans, LA.)

MC 147444 (Sub-1F), filed May 30, 1979. Applicant: TRAIN TERMINAL & TRANSFER CO., A Corporation, 3119 Train Ave., Cleveland, OH 44113. Representative: Joseph E. Ludden, 324 Exchange Bldg., P.O. Box 1567, La Crosse, WI 54601. Transporting (1) *aluminum alloy ingots, zinc alloy ingots, scrap metals, and zinc*, and (2) *equipment and supplies* used in the manufacture and distribution of ingots, between the facilities of (a) Aluminum Smelting & Refining Co., Inc., and (b) Certified Alloys Company, at Maple Heights, OH, on the one hand, and, on the other, points in CT, IL, IN, IA, KY, MD, MI, MN, MO, NE, NJ, NY, PA, TN, and WI. (Hearing site: Cleveland, OH, or Washington, DC.)

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Decided: November 1, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 1074 (Sub-18F), filed June 4, 1979. Applicant: ALLEGHENY FREIGHT LINES, INC., P.O. Box 2080, Winchester, VA 22601. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. 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 Cello Chemical Co., Inc., at Havre de Grace, MD, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Washington, DC, or Baltimore, MD.)

MC 4405 (Sub-608F), filed June 1, 1979. Applicant: DEALERS TRANSIT, INC., Corporation, P.O. Box 236, Tulsa, OK 74101. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *dump bodies*, from points in Fayette County, PA, to points in the United States (including AK but excluding HI). (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 8575 (Sub-6F), filed June 1, 1979. Applicant: FERGUSON VAN LINES, INC., 3999 Erie Avenue, Cincinnati, OH 45208. Representative: Howard Gould, 2613 Carew Tower, Cincinnati, OH 45202. Transporting *household goods*, as defined by the Commission between points in Hamilton, Clermont, Brown, Warren, Clinton and Butler Counties, OH, Boone, Kenton, Campbell, Pendleton, Grant, and Gallatin Counties, KY, and Dearborn County, IN, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: Cincinnati, OH.)

MC 34975 (Sub-15F), filed April 13, 1979. Applicant: TREDWAY'S EXPRESS, INC., 512 Myrtle Ave., Boonton, NJ 07005. Representative: Bernard F. Flynn, Jr., 425 E. Blackwell St., Dover, NJ 07801. Transporting *such commodities* as are dealt in by department stores, between points in NY, NJ, CT, PA, MD, and DE, on the one hand, and, on the other, Albany and New York, NY, West haven, CT, Baltimore, MD, Dover, DE, Philadelphia and Allentown, PA, and Boonton, and East Windsor, NJ. (Hearing site: New York, NY.)

MC 41404 (Sub-159F), filed May 31, 1979. Applicant: ARGO–COLLIER TRUCK LINES CORPORATION, P.O. Box 440, Martin, TN 38237. Representative: Mark L. Horne (same address as applicant). Transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Louisville, KY, to points in AL, AR, FL, GA, IL, IN, LA, MI, MO, MS, NC, SC, TN, and WI. (Hearing site: Louisville, KY, or St. Louis, MO.)

MC 56244 (Sub-83F), filed June 1, 1979. Applicant: KUHN TRANSPORTATION CO., INC., P.O. Box 98, R.D. #2, Gardners, PA 17324. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. Transporting *canned goods* (except frozen), from the facilities of Joan of Arc Company, at Hoopeston and Princeville, IL, to points in MD, NJ, PA, VA, and DC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Harrisburg, PA or Washington, DC.)

MC 60014 (Sub-117F), filed May 31, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting *paving joints, siding, and paving joint compound*, from the facilities of W. R. Meadows of Georgia, Inc. at Atlanta, GA, to those points in the United States in and east of MN, WI, IL, KY, TN, MS, and LA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 60014 (Sub-120F), filed June 4, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Board Street, Columbus, OH 43215. Transporting *iron and steel articles, belt, hose, and machinery*, between the facilities of Red Stewart Supply Company, at or near Birmingham, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Birmingham, AL.)

MC 60014 (Sub-122F), filed May 31, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting (1) *Pipe, fittings, fire hydrants, and valves, and* (2) *accessories* used in the installation of the commodities names in (1) above, (except commodities in bulk), from the facilities of Clow Corporation, at or near Birmingham, AL, to points in CT, DE, IL, IN, IA, KY, ME, MD, MI, MN, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC. (Hearing site: Washington, DC.)

MC 60014 (Sub-124F), filed June 5, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting (1) *cranes and accessories for cranes*, from the facilities of Kranco, Inc., at Houston, TX, to points in the United States (except AK and HI), and (2) *air compressors, air compressor parts, and accessories for air compressors*, from the facilities of Tide Air, Inc., at Houston, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX, or Washington, DC.)

MC 56475 (Sub-25F), filed June 3, 1979. Applicant: JETCO, INC., 4701 Eisenhower Avenue, Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting *iron and steel articles*, from the facilities of Connors Steel Company, Inc., at Huntington, WV, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 67234 (Sub-21F), filed May 31, 1979. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Transporting *new furniture*, and *commercial institutional fixtures*, between points in WA, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Tacoma, WA, or St. Louis, MO.)

MC 85255 (Sub-67F), filed May 30, 1979. Applicant: PUGET SOUND TRUCK LINES, INC., P.O. Box 24526,

Seattle, WA 98124. Representative: Clyde H. MacIver, 1900 Peoples National Bank Bldg., 1415 Fifth Ave., Seattle, WA 98171. Transporting *bakery products,* from the facilities of Nabisco, Inc., at or near Portland, OR, to Spokane, WA. (Hearing site: Seattle, WA.)

MC 95084 (Sub-143F), filed June 1, 1979. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, 1501 East Main, P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *agricultural machinery and materials and supplies,* used in the distribution and sale of agricultural machinery (except commodities in bulk), from the facilities of DewEze Mfg., Inc., at or near Harper, KS, to points in the United States (except AK and HI); and (2) *materials and supplies* used in the manufacture, and distribution of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Wichita, KS, or Omaha, NE.)

MC 98614 (Sub-10F), filed June 1, 1979. Applicant: ARKANSAS TRANSPORT COMPANY, a corporation, P.O. Box 702, Little Rock, AR 72203. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *petroleum and petroleum products,* in bulk, in tank vehicles, between points in AR and LA. (Hearing site: Nashville, TN.)

MC 106074 (Sub-114F), filed May 31, 1979. Applicant: B AND P MOTOR LINES, INC., Shiloh Road and U.S. Hwy. 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting (1) *plastic articles and plastic materials,* from Forest City, NC, to points in GA, IL, and MI; and (2) *material, equipment, and supplies* used in the manufacture and distribution of plastic articles, in the reverse direction. (Hearing site: Charlotte, NC, or Washington, DC.)

Note.—Dual operations may be involved.

MC 106674 (Sub-394F), filed June 1, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting (1) *precut log buildings,* and (2) *accessories* used in the installation of the precut log buildings from Fletcher, NC, to points in IL, IN, KY, MI, OH, and TN. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 106674 (Sub-399F), filed June 4, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting *Iron and steel articles,* from the facilities of Connors Steel Corporation, at or near Huntington, WV, to those points in the United States in and east of MN, IA, MO, AR, and TX. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 107064 (Sub-133F), filed May 31, 1979. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, Dallas, TX 75221. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Transporting *sodium sulfate,* from points in Terry and Gaines Counties, TX, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 107515 (Sub-1242F), filed June 1, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *foodstuffs,* from the facilities of J. M. Smucker Company, at or near Memphis, TN, to points in FL, GA, NC, SC, AL, KS, NE, MO, IL, and IA. (Hearing site: Memphis, TN.)

Note.—Dual operation may be involved.

MC 109265 (Sub-27F), filed June 1, 1979. Applicant: W. L. MEAD, INC., P.O. Box 31, Cleveland Rd., Norwalk, OH 44857. Representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215. To operate as a *common carrier,* in interstate or foreign commerce, by motor vehicle of *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 all points in OH as off-route points in conjunction with regular-route operations at Norwalk, OH. (Hearing site: Columbus, OH.)

Note.—Applicant now holds authority to serve (a) Norwalk as an intermediate point on its regular-routes between Boston, MA, and Columbus, OH, and (b) all points in OH as off-route points in conjunction with its regular-route operations at North Fairfield, OH. The purpose of this application is to add Norwalk as an alternate gateway to be used in conjunction with the authority described in (b) above.

MC 109804 (Sub-2F), filed May 21, 1979. Applicant: BILLIE ORTON TRUCKING, Route 3, Memphis, MO 63555. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *malt beverages,* and *malt beverage containers,* from Columbus, OH, Kansas City, MO, and East St. Louis, IL, to Grinnell, IA; and (2) *malt beverage containers,* in the reverse direction, under continuing contract(s) with Grinnell Beverage Company, Inc., of Grinnell, IA. (Hearing site: Des Moines, IA.)

MC 111045 (Sub-175F), filed June 5, 1979. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, FL 33601. Representative: F. W. Fincher (same address as applicant). Transporting (1) *chemicals,* in bulk, in tank vehicles, from Spartanburg, SC, to points in FL, MS, LA, and TX; (2) *tall oil,* in bulk, in tank vehicles, from Port St. Joe, FL, to Spartanburg, SC; and (3) *petroleum products,* in bulk, in tank vehicles, from points in TX to Spartanburg, SC. (Hearing site: Spartanburg, SC.)

MC 111545 (Sub-285F), filed May 30, 1979. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as appliant). Transporting *plywood, paneling, gypsum board, composition board, molding,* and *particleboard,* from the facilities of Pan American Gyro-Tex, Company at or near Valdosta, GA, to those points in the United States in and east of MN, IA, NE, KS, OK, and TX (except GA). (Hearing site: Atlanta, GA, or Jacksonville, FL.)

MC 113475 (Sub-33F), filed June 4, 1979. Applicant: RAWLING TRUCK LINE, INC., P.O. Box 831, Emporia, VA 23847. Representative: Harry J. Jordan, 1000 16th Street, NW., Washington, DC 20036. Transporting *iron and steel articles,* from the facilities of United States Steel Corporation, at or near (a) Fairless, Dravosburg, Homestead, Duquesne, Clairton, McKees Rocks, Johnstown, McKeesport, and Vandergrift, PA, and (b) Lorain, Cleveland, and Youngstown, OH, to points in VA, NC, and SC. (Hearing site: Washington, DC, or Richmond, VA.)

MC 116645 (Sub-30F), filed June 4, 1979. Applicant: DAVIS TRANSPORT CO., a corporation, P.O. Box 56, Gilcrest, CO 80623. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. Transporting *ammonium polyphosphate* in bulk, in tank vehicles, from the facilities of Cargill, Inc., at Sterling, CO, to points in KS, NE, OK, SD, TX, and WY. (Hearing site: Denver, CO.)

MC 118805 (Sub-7F), filed June 1, 1979. Applicant: CONTINENTAL VAN LINES, INC., 4501 W. Marginal Way S.W., P.O. Box 3693, Seattle, WA 98124. Representative: Susan Carlson, 1215 Norton Bldg., Seattle, WA 98104. Transporting *used household goods,* between points in WA, restricted to the transportation of shipments having a prior or subsequent movement in containers beyond the points

authorized, and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and decontainerization of such shipments. (Hearing site: Seattle, WA.)

MC 121654 (Sub-22F), filed June 7, 1979. Applicant: COASTAL TRANSPORT & TRADING CO., a corporation, P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, 3390 Peachtree Rd., NE, 5th Floor-Lenox Towers South, Atlanta, GA 30326. Transporting *iron and steel articles,* from Darlington, SC, to points in AL, GA, FL, NC, and VA. (Hearing site: Atlanta, GA or Jacksonville, FL.)

Note.—Dual operations may be involved.

MC 124964 (Sub-37F), filed June 1, 1979. Applicant: JOSEPH M. BOOTH, d.b.a. J. M. Booth Trucking, P.O. Box 907, Eustis, FL 32726. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs,* from Hillsdale and Jonesville, MI, to points in AL, FL, and GA, under continuing contract(s) with DCA Food Industries, Inc., of New York, NY. (Hearing site: New York, NY, or Washington, DC.)

MC 124964 (Sub-38F), filed May 18, 1979. Applicant: JOSEPH M. BOOTH, d.b.a. J. M. BOOTH TRUCKING, P.O. Box 907, Eustis, FL 32726. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, CT, FL, GA, IL, IN, KS, MI, MD, MN, MO, MS, NC, NJ, NE, NY, OH, PA, TN, TX, SC, VA, and WI, under continuing contract(s) with Kraft, Inc., of Chicago, IL. (Hearing site: Washington, DC, or Chicago, IL.)

MC 127524 (Sub-23F), filed June 7, 1979. Applicant: QUADREL BROS. TRUCKING COMPANY, INC., 1603 Hart St., Rahway, NJ 07065. Representative: John L. Alfano, 550 Manaroneck Ave., Harrison, NY 10528. Transporting *liquid chemicals,* in bulk, between the facilities of Union Carbide Company, at or near Carteret, NJ, on the one hand, and, on the other, Baltimore, MD, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: New York, NY, or Newark, NJ.)

MC 134755 (Sub-14F), filed March 16, 1979, previously noted in **Federal Register** issue of August 2, 1979, as MC 134755 (Sub-176F). Applicant: GUNTER BROS., INC., 19060 Frager Rd., Kent, WA 98031. Representative: Henry C. Winters, 525 Evergreen Bldg., Renton, WA 98055. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *air cargo containers, landing gear, fuselage fairing components, and interior aircraft furnishings,* from Kent, WA, to points in the United States (except AK and HI), under continuing contract(s) with Heath Tecna Corporation, Kent, WA. (Hearing site: Seattle, WA.)

Note.—This republication corrects the number.

MC 145655 (Sub-5F), filed May 30, 1979. Applicant: TYSON FOODS, INC., 2210 Oaklawn P.O. Drawer E Springdale, AR 72764 Representative: Michael H. Mashburn, 111 Holcomb St., P.O. Box 869 Springdale, AR 72764. To operate as a *contract carrier,* by motor vehicle, in interstate or foriegn 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 points in CT, IN, LA, MO, NH, and RI, to Bentonville, Searcy, and Fort Smith, AR, under continuing contract(s) with Wal-Mart Stores, Inc., of Bentonville, AR. (Hearing site: Fayetteville or Ft. Smith, AR.)

MC 146334 (Sub-2F), filed June 3, 1979. Applicant: SPECHT TRUCKING, INC., Route 2, Box 595 A Lake Villa, IL 60046. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: (1) *plastic and plastic products,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, from Waukegan and Elmhurst, IL, to points in MN, WI, MI, IA, OH, IN, PA, NY, IL, MO, KY, and TN; and (3) *plastic granules,* from Monaca, PA, to Waukegan, IL, under continuing contract(s) with Foam Forms, Inc., of Waukegan, IL. (Hearing site: Chicago, IL.)

MC 157304F, filed June 1, 1979. Applicant: MONTE L. THOEN and DORIS R. THOEN, d.b.a., THOEN TRUCK RENTALS 13124 N. W. Sue St. Portland, OR 97229.Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Avenue Portland, OR 97210.Transporting *malt beverages,* from the facilities of Blitz-Weinhard Brewing Company, at Portland, OR, to points in CA, OR, WA, ID, MT, WY, NV, UT, CO, AZ, and NM. (Hearing site: Portland, OR.)

MC 147435F, filed May 31, 1979. Applicant: CRONIN TRANSPORT LIMITED, P.O. Box 54, Dublin, Ontario, Canada NOK 1EO. Representative: William J. Hirsch, Suite 1125 43 Court St., Buffalo, NY 14202. 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), in containers, between ports of entry on the international boundary line between the United States and Canada, (a) at Detroit, MI, on the one hand, and, on the other, Detroit, MI; (b) at Port Huron, MI, on the one hand, and, on the other, Port Huron, MI; and (c) on the Niagara River, on the one hand, and, on the other, Buffalo, NY, restricted to the transportation of traffic moving in foreign commerce. (Hearing site: Buffalo, NY.)

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Decided: November 2, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 105269 (Sub-76F), filed April 30, 1979. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake Street, P.O. Box 986 Kalamazoo, MI 49005. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. Transporting (1) *paper and paper products, and* (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in IL, IN, IA, KY, MI, MN, MO, OH, PA, WV, and WI, restricted to the transportation of traffic originating at or destined to the facilities of (a) Middleton Paperboard Company or (b) Wisconsin Paperboard Corporation. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 106398 (Sub-886F), filed April 26, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). Transporting *aluminum products,* between the facilities of Keystone Resources-Aluminum Division, at Greensboro, GA, on the one hand, and, on the other, points in the United States in and east of WI, IL, KY, TN, MS, and LA. (Hearing site: Chicago, IL.)

MC 106398 (Sub-898F), filed April 30, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). Transporting *lumber, lumber mill products, and wood products,* from

points in Butte, Custer, Harding, Lawrence, Meade, and Pennington Counties, SD, to points in AZ, AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, MT, NV, NM, ND, OH, OK, TX, TN, WI, and WY. (Hearing site: Denver, CO.)

MC 116328 (Sub-2F), filed May 17, 1979. Applicant: CROSS & MURRAY, INC., 710 Third Ave., No., Minneapolis, MN 55403. Representative: William E. Fox, 4200 IDS Center, 80 So. Eighth St., Minneapolis, MN 55402. Transporting *liquid sugar and edible corn syrup,* in bulk, in tank vehicles, from Cedar Rapids, IA, to Fargo, ND, Sioux Falls, SD, and points in MN and WI. (Hearing site: Minneapolis, MN.)

MC 119988 (Sub-199F), filed April 27, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion 1108 Continental Life Building, Ft. Worth, TX 76102. Transporting (1) *petroleum products,* in packages, from the facilities of Texaco, Inc., in Jefferson County, TX, to points in AR, IN, IL, OH, WI, MI, and KY; and (2) *empty containers* for petroleum products, in the reverse direction. (Hearing site: Houston, TX, or Dallas, TX.)

MC 120869 (Sub-3F), filed April 30, 1979. Applicant: CALIFORNIA TANK LINES, INC., 3105 McKinley Avenue, Stockton, CA 95206. Representative: John G. Lyons, 220 Bush Street, Room 1418, San Francisco, CA 94104. Transporting *petroleum products,* in bulk, between points in CA. (Hearing site: San Francisco, CA.)

Note.—Applicant seeks to convert Certificate of Registration No. MC–120869 to a Certificate of Public Convenience and Necessity.

MC 126709 (Sub-13F), filed April 24, 1979. Applicant: SABER, INC., 514 South Floyd Blvd., Sioux City, IA 51101. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Transporting (1) *animal fats, animal oils, and animal greases,* between points in IL, TA, KS, MN, MO, NE, ND, SD, and WI, and (2) *such commodities* as are dealt in or used by meat-packing houses, in bulk, in tank vehicles, from Sioux Falls, SD, and Sioux City and Estherville, IA, to points in IL, IA, KS, MN, MO, SD, and WI. (Hearing site: Omaha, NE.)

MC 136168 (Sub-35F), filed April 30, 1979. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 3326, Des Moines, IA 50316. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *meats, meat products and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (a) from the facilities of Wilson Foods Corporation, at (i) Albert Lea, MN, (ii) Cedar Rapids, Cherokee, and Des Moines, IA, and (iii) Monmouth, IL, to points in WI, and (b) from the facilities of Wilson Foods Corporation at Logansport, IN, to points in IL and WI; and (2) materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk and those requiring special equipment), from points (a) in WI to the origins described in (1)(a) above, and (b) above, under continuing contract (s) with Wilson Foods Corporation, of Des Moines, IA. (Hearing site: Dallas, TX, or Kansas City, MO.)

Note.—Dual operations may be involved.

MC 138328 (Sub-89F), filed May 8, 1979. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, Interstate Hwy 80 and Hwy 50, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby (same address as applicant). Transporting *such commodities* as are dealt in by retail and discount stores (except household goods and foodstuffs), from Seattle, WA, and Los Angeles, CA, to the facilities of Pamida, Inc., at Omaha, NE. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 141958 (Sub-13F), filed April 27, 1979. Applicant: FEDCO FREIGHTLINES, INC., P.O. Box 422, Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cleaning and washing compounds,* and (2) institutional and industrial maintenance supplies, except those described in (1) and (3) *such commodities* as are dealt in or used by drug, grocery, and food business houses (except commodities in bulk), between Kansas City, KS, and points in IL, IN, KY, MI, MO, OH, TN, and PA, under continuing contract(s) with The Procter and Gamble Company and its wholly-owned subsidiaries, The Procter & Gamble Distributing Company, The Procter & Gamble Manufacturing Company, The Procter & Gamble Paper Products Company, and The Folger Coffee Company, of Cincinnati, OH. (Hearing site: Cincinnati, OH, or Chicago, IL.)

MC 143059 (Sub-77F), filed April 23, 1979. Applicant: MERCER TRANSPORTATION CO., a corporation, 12th & Main Streets, P.O. Box 35610, Louisville, KY 40232. Representative: James L. Stone (same address as applicant). Transporting *iron and steel articles,* from the facilities of Republic Steel Corporation, at or near Chicago, IL, to points in AR, IN, KY, LA, MS, and TN, restricted to the transportation of traffic originating at the named origin. (Hearing site: Louisville, KY, or Washington, DC.)

MC 143328 (Sub-22F), filed May 18, 1979. Applicant: EUGENE TRIPP TRUCKING, a corporation, P.O. Box 282, Frenchtown, MT 59834. Representative: David Sutherland, 1150 Connecticut Avenue, NW., Suite 400, Washington, DC 20036. Transporting (1) *paper and paper products,* from the facilities of Champion International Corporation, at or near Frenchtown, MT, to points in CA, WA, OR, WI, and MN, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Missoula, MT.)

MC 143739 (Sub-15F), filed May 22, 1979. Applicant: SHURSON TRUCKING COMPANY, INC., Box 147, New Richland, MN 56072. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *such commodities as are dealt in by chain grocery and food business houses* (except commodities in bulk, in tank vehicles), *in vehicles equipped with mechanical refrigeration,* between points in AZ, GA, IA, ID, IL, IN, KS, KY, MI, MN, MO, ND, NE, OH, PA, SD, TN, TX, UT, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 145248 (Sub-1F), filed April 26, 1979. Applicant: AIR NEW MEXICO, INC. d.b.a.; LAS CRUCES/EL PASO AIRPORT STAGE LINE, 9531 Dyer Street, El Paso, TX 79924. Representative: Sanford C. Cox, Jr., 9th Floor, El Paso Nt National Bank Building, El Paso, TX 79901. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting (1) *passengers and their baggage* in the same vehicle with passengers, and (2) *general commodities* (except commodities in bulk, classes A and B explosives, and those requiring special equipment), between the El Paso, International Airport at El Paso, TX, and Las Cruces, NM, over Interstate Hwy 10, serving no intermediate points, and

restricted in (1) and (2) above to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: El Paso, TX.)

MC 145829 (Sub-9F), filed May 8, 1979. Applicant: ETI CORP., P.O. Box 549, Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned and preserved foodstuffs*, from the facilities of Heinz, USA, at or near Pittsburgh, PA, to points in NJ and those in NY on and south of Interstate Hwy 84 and on and east of Interstate Hwy 87, under continuing contract(s) with Heinz, USA, A Division of H. J. Heinz Co., of Pittsburgh, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. § 11343(a) formerly Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 148578F, filed May 14, 1979. Applicant: IDA–CAL FREIGHT LINES, INC., P.O. Box Drawer M, Nampa, ID 83651. 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 in bulk) in vehicles equipped with mechanical refrigeration, from Los Angeles and Ontario, CA, to points in MT, NV, UT, and WA, under continuing contract(s) with Kraft, Inc., of Chicago, IL. (Hearing site: Los Angeles, CA, or Phoenix, AZ.)

Note.—Dual operations may be involved.

MC 148579 (Sub-1F), filed May 10, 1979. Applicant: GREAT NORTHEASTERN, INC., P.O. Box 115, Blue Ball, PA 17506. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Transporting (1) *hard-surface floor coverings* and (2) *articles* used in the installation and maintenance of the commodities in (1) above, from the facilities of Armstrong Cork Company, at Lancaster and East Hempfield, PA, to points in OH, IN, IL, WI, KY, MI and MO, restricted to the transportation of traffic originating at the name origins and destined to the indicated destinations. (Hearing site: Harrisburg, PA, or Washington, DC.)

Note.—Dual operations may be involved.

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Decided: November 9, 1979.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

MC 989 (Sub-33F), filed May 24, 1979. Applicant: IDEAL TRUCK LINES, INC., P.O. Box 330, Norton, KS 67654. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Transporting (1) *fireplaces, air heaters, and ventilators*, from Lucas, KS, to points in CO, IL, IA, MN, MO, NE, OK, and WY, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except those requiring special equipment) in the reverse direction. (Hearing site: Kansas City, MO.)

MC 29079 (Sub-108F), filed May 24, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H Street NW., Washington, DC 20006. Transporting (1) *electric motors*, and *parts and accessories* for electric motors, from Mt. Sterling, KY, to points in IL, IN, MD, MI, OH, MO, NJ, NY, NC, PA, SC, VA, WV, WI, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of electric motors, in the reverse direction (Hearing site: Washington, DC.)

MC 29079 (Sub-109F), filed May 24, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, 1210 So. Union St., Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H St. NW., Washington, DC 20006. Transporting *cardboard bottle and can carriers*, from the facilities of Hi-Cone Div. of ITW, at Itasca, IL, to Madisonville, Lexington, and Winchester, KY. (Hearing site: Washington, DC.)

MC 29079 (Sub-110F), filed May 24, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H Street NW., Washington, DC 20006. Transporting (1) *iron and steel articles*, from the facilities of Berwick Forge & Fabrication, Div. of Whitaker Corporation, at Berwick, PA, to points in IL, IN, KY, MD, MI, OH, MO, NJ, NY, NC, SC, VA, WV, WI, and DC and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Washington, DC.)

MC 29079 (Sub-111F), filed May 24, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, 1210 So. Union St., Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H St. NW., Washington, DC 20006. Transporting (1) *pipe cable, wire, sheet steel, and strip steel*, from the facilities of Triangle PWC, Inc., at New Brunswick, NJ, to points in DE, IL, IN, KY, MD, MI, MO, NY, NC, OH, PA, SC, VA, WV, WI, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of commodities in (1) above, in the reverse direction

MC 29079 (Sub-112F), filed May 24, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H Street NW., Washington, DC 20006. Transporting (1) *iron and steel articles*, from the facilities of Bethlehem Fab., at Bethlehem, PA, to points in IL, IN, KY, MD, MI, MO, NJ, NY, NC, OH, SC, VA, WV, WI, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of commodities in (1) above, in the reverse direction (Hearing site: Washington, DC.)

MC 40978 (Sub-61F), filed May 24, 1979. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, a corporation, 3321 Business 141 South, Sheboygan, WI 53081. Representative: William C. Dineen, 710 N. Plankinton, Avenue, Milwaukee, WI 53203. Transporting *new furniture*, from the facilities of the Simmons Company, at Kansas City, KS, to points in IA, IL, IN, MO, and WI. (Hearing site: Milwaukee, WI.)

MC 73688 (Sub-91F), filed May 25, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Ave., P.O. Box 7195, Memphis, TN 38107. Representative: Diane Price, Southern Trucking Corporation, Route 6, Box 15, North Little Rock, AR 72118. Transporting *plastic pipe and fittings*, from Memphis, TN, to points in AL, AR, GA, IN, IL, KY, LA, MS, MO, NC, SC, FL, and TX. (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 99019 (Sub-11F), filed May 24, 1979. Applicant: KILLIAN–BLACK TRUCKING, INC., 100 Katharine Street, Buffalo, NY 14210. Representative: Robert D. Gunderman, Suite 710, Statler Bldg., Buffalo, NY 14202. Transporting *flour*, in bulk, in tank vehicles, from Baldwinsville and Buffalo, NY, to Detroit, MI. (Hearing site: Buffalo, NY.)

MC 103798 (Sub-43F), filed May 25, 1979. Applicant: MARTEN TRANSPORT, LTD., Rural Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H. J. Heinz Company, at Iowa City and Muscatine, IA, to

points in NE, and WI. (Hearing site: Minneapolis, MN, or Philadelphia, PA.)

Note.—Dual operations may be involved.

MC 106398 (Sub-911F), filed May 22, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103 Representative: Fred Rahal, Jr. (same address as applicant). Transporting *fabricated structural steel, steel vessels, steel pipe, and fabricated pipe,* from the facilities of Southeast Pipe Fabricators, Inc., at Crossett, AR, to points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 107678 (Sub-70F), filed May 22, 1979. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, TX 77015. Representative: David A. Sutherlund, 1150 Connecticut Avenue, NW, Suite 400, Washington, DC 20036. Transporting (1) *pipe, and iron and steel articles,* from Conroe, TX, to points in the United States (including AK, but excluding HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Houston, TX.)

MC 107678 (Sub-71F), filed May 24, 1979. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, TX 77015. Representative: David A. Sutherlund, 1150 Connecticut Avenue, NW., Suite 400, Washington, DC 20036. Transporting (1) (a) *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 (b) *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 of pipe lines, and (2) *earth drilling equipment,* and *equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in CA, on the one hand, and, on the other, points in the United States (including AK and HI). (Hearing site: Houston, TX, or San Francisco, CA.)

MC 109449 (Sub-38F), filed May 25, 1979. Applicant: KUJAK TRANSPORT, INC., 6366 W. 6th Street, Winona, MN 55987. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. Transporting *coke,* in bulk, from Milwaukee, WI, to Winona, MN. (Hearing site: St. Paul, MN, or Chicago, IL.)

MC 109818 (Sub-50F), filed May 25, 1979. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *bananas,* from Tampa, FL, to points in IA, IL, IN, MI, MN, MO, NE, WI, and OH. (Hearing site: Tampa, FL.)

MC 110988 (Sub-391F), filed May 23, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. Transporting (1) *crude tall oil,* in bulk, in tank vehicles, from Nekoosa, WI, to Nitro, WV, and (2) *liquid latex,* from Kobuta, PA, to the facilities of ARCO/Polymers, Inc., at Bucksport and Rumford, ME. (Hearing site: Chicago, IL.)

MC 112989 (Sub-102F), filed May 24, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same as applicant). Transporting (1) *knocked-down buildings,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Visalia, CA, on the one hand, and, on the other, points in CA, OR, WA, ID, NV, AZ, UT, MT, WY, CO, NM, and TX. (Hearing site: San Francisco or Los Angeles, CA.)

MC 112989 (Sub-112F), filled April 9, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., (same address as applicant). Transporting *lumber, lumber mill products, and wood products,* (1) from points in CA, OR, and WA to points in UT, and (2) between points in CA, ID, and NV. (Hearing site: Portland, OR.)

Note.—Dual operations may be involved.

MC 113678 (Sub-813F), filed May 22, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting (1) *bananas,* and (2) *coconuts and pineapples,* in mixed loads with bananas, from Galveston, TX, to points in CO. (Hearing site: Denver, CO.)

MC 113678 (Sub-814F), filed May 22, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *foodstuffs* (except commodities in bulk), from New Orleans, LA, to points in AZ, CA, CO, ID, IL, IA, MN, MO, MT, NE, NV, MN, OR, UT, WA, and WI. (Hearing site: New Orleans, LA.)

MC 113678 (Sub-823F), filed May 23, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses,* and *such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers,* as described in Sections A, 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, in tank vehicles), (1) between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, on the one hand, and, on the other, points in the United States (except AK, HI, and IA), (2) from Mason City, IA, to points in the United States (except AK, CT, DE, HI, IL, IN, IA, KY, ME, MD, MA, MI, NE, NJ, NY, PA, and DC), (3) from Mason City, IA, to Chicago, IL, and (4) from points in the United States (except AK, HI, and IA), to Mason City, IA, restricted in parts (1), (2), (3), and (4) above, to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Phoenix, AZ.)

MC 114028 (Sub-33F), filed May 25, 1979. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Transporting *water treatment chemicals,* in drums, from Frisco, PA, to points in IA. (Hearing site: Pittsburgh, PA, or Chicago, IL.)

MC 114569 (Sub-311F), filed May 25, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Transporting (1) *tea,* and (2) *equipment and supplies* used in the manufacture and distribution of tea products, between Denver, CO, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Denver, CO, or Washington, DC.)

MC 114569 (Sub-313F), filed May 22, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingdom, PA

17072. Representative: N. L. Cummins (same address as applicant). Transporting (1) *bananas*, and (2) *agricultural commodities* the transportation of which is otherwise exempt from economic, regulation under 49 U.S.C. 10526(a)(6), in mixed loads with bananas, from Port Newark, NJ, Baltimore, MD, and Albany, NY, to points in MI, OH, IL, IN, PA, WV, VA, and WI. (Hearing site: Harrisburg, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114569 (Sub-314F), filed May 22, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Transporting *such commodities* as are dealt in or used by retail department stores, from the facilities of Turco Manufacturing Company, at Du Quoin, IL, and points in Williamson County, IL, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114569 (Sub-315F), filed May 22, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Transporting *foodstuffs*, (except commodities in bulk), from the facilities of Baumert Foods, Inc., at or near New Orleans, LA, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named facilities. (Hearing site: New Orleans, LA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114569 (Sub-317F), filed May 22, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Transporting *foodstuffs*, (except commodities in bulk), from the facilities of Schwartz Pickle Co., Inc., at Chicago, IL, to Atlanta, GA, and points in TX, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 117068 (Sub-116F), filed May 25, 1979. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. Transporting (1) *contractors' and industrial equipment, mining machinery, and self-propelled vehicles* (except automobiles, trucks, buses, and motor homes), (2) *parts* for the commodities in (1) above, and (3) *materials and supplies* used in the distribution and manufacture of the commodities in (1) and (2) above (except commodities in bulk), between the facilities of Joy Manufacturing Company at or near (a) Franklin, PA, (b) Birmingham, AL, (c) Claremont, NH, (d) Buffalo, NY, (e) Michigan City, IN, (f) Wilson, NC, (g) New Philadelphia, OH, (h) Colorado Springs and Denver, CO, and (i) Wheeling, WV, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Washington, DC.)

MC 119489 (Sub-61F), filed May 24, 1979. Applicant: PAUL ABLER d.b.a. CENTRAL TRANSPORT COMPANY, P.O. Box 249, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. Transporting *liquid fertilizer*, in bulk, in tank vehicles, from Perry, NE, to points in CO and KS. (Hearing site: Omaha, NE.)

MC 121499 (Sub-9F), filed April 2, 1979, previously noticed in the **Federal Register** issue of September 27, 1979. Applicant: WILLIAM HAYES LINES, INC., P.O. Box 610, Lebanon, TN 37087. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting *general commodities* except those of unusual value, classes A and B explosives, household goods as defined by the Commission commodities in bulk, and those requiring special equipment), (1) between Nashville, TN, and New Albany, IN, over U.S. Hwy 31W, serving Louisville, KY, as an intermediate point, and serving (a) junction TN Hwy 109 and U.S. Hwy 31W, at or near Mitchell, TN, (b) junction U.S. Hwy 68 and U.S. and U.S. Hwy 31W, (c) junction KY Hwy 90 and U.S. Hwy 31W, (d) junction KY Hwy 218 and U.S. Hwy 31W, and (e) junction Western Kentucky Parkway and U.S. Hwy 31W, for purposes of joinder only; (2) between Nashville, TN, and New Albany, IN, from Nashville over Interstate Hwy 65 to junction Interstate Hwy 64, then over Interstate Hwy 64 to New Albany, and return over the same route, serving Louisville, KY, as an intermediate point, and serving (a) junction U.S. Hwy 31W/TN Hwy 109 and Interstate Hwy 65, (b) junction U.S. Hwy 68 and Interstate Hwy 65, (c) junction KY 90 and Interstate Hwy 65, (d) junction KY Hwy 218 and Interstate Hwy 65, and (e) junction Western Kentucky Parkway and Interstate Hwy 65, for purposes of joinder only; (3) between Nashville, TN and Lebanon, TN: over U.S. Hwy 70, serving all intermediate points; (4) between Nashville, TN, and Lebanon, TN: from Nashville over Interstate Hwy 40 to junction U.S. Hwy 231 then over U.S. Hwy 231 to Lebanon, and return over the same route, serving all intermediate points; (5) between Lebanon, TN, and Louisville, KY, from Lebanon over U.S. Hwy 231 to junction U.S. Hwy 31E, then over U.S. Hwy 31E to Lousiville, and return over the same route, serving all intermediate points between Lebanon and junction U.S. Hwy 231 and TN Hwy 25, and serving (a) junction KY Hwy 90 and U.S. Hwy 31E and (b) junction KY Hwy 218 and U.S. Hwy 31E, for purposes of joinder only; (6) between junction TN Hwy 109 and Interstate Hwy 40 and junction U.S. Hwy 31W and TN Hwy 109 over TN Hwy 109, serving no intermediate points, and serving junction U.S. Hwy 70 TN Hwy 109 and the termini for purposes of joinder only; (7) between junction KY Hwy 90 and U.S. Hwy 31E, at or near Glasgow, KY, and junction KY Hwy 90 and Interstate Hwy 65 near Cave City, KY, over KY Hwy 90, serving no intermediate points, but serving junction KY Hwy 90 and U.S. Hwy 31W and the termini for purposes of joinder only; (8) between junction KY Hwy 218 and U.S. Hwy 31E and junction KY Hwy 218 and Interstate Hwy 65, over KY Hwy 218 serving no intermediate points, but serving junction KY Hwy 218 and U.S. Hwy 31W and the termini for purposes of joinder only; (9) between Memphis, TN, and Nashville, TN, over Interstate Hwy 40, serving no intermediate points; (10) between Memphis, TN, and junction U.S. Hwy 68 and Interstate Hwy 65 and U.S. Hwy 31W, at or near Smiths Grove, KY: from Memphis over U.S. Hwy 79 to junction U.S. Hwy 68 at Russellville, KY, then over U.S. Hwy 68 to junction Interstate Hwy 65 and junction U.S. Hwy 31W at or near Smiths Grove, KY, and return over the same route, serving no intermediate points; (11) between Memphis, TN and junction Western Kentucky Parkway and Interstate Hwy 65 and junction U.S. Hwy 31W, at or near Elizabethtown, KY, from Memphis over U.S. Hwy 51 to junction Purchase Parkway, at or near Fulton, KY, then over Purchase Parkway to junction U.S. Hwy 62, then over U.S. Hwy 62 to junction Western Kentucky Parkway, then over Western Kentucky Parkway to junction Interstate Hwy 65 and junction U.S. Hwy 31W, at or near Elizabethtown, KY, and return over the same route, serving no intermediate points; (12) between Memphis, TN, and Atlanta, GA, from Memphis over U.S. Hwy 72 to junction U.S. Hwy Alternate 72, then over U.S. Hwy Alternate 72 to junction Interstate Hwy 65, then over

Interstate Hwy 65 to Birmingham, AL, then over U.S. Hwy 78 to Atlanta, GA, and return over the same route, serving no intermediate points, but serving junction Interstate Hwy 65 and U.S. Hwy 278 for purposes of joinder only; (13) between junction Interstate Hwy 65 and U.S. Hwy 278 at or near Cullman, AL, and Atlanta, GA, over U.S. Hwy 278, serving no intermediate points; (14) Between New Albany, IN, and Chattanooga, TN, from New Albany over Interstate Hwy 64, to junction Interstate Hwy 75, then over Interstate Hwy 75 to Chattanooga, TN, and return over the same route, serving Louisville, KY, as an intermediate point, and serving (a) junction Interstate Hwy 64 and U.S. Hwy 127; (b) junction Interstate Hwy 64 and U.S. Hwy 27; and (c) Chattanooga, TN, for purposes of joinder only; (15) between junction Interstate Hwy 64 and U.S. Hwy 127 and Chattanooga, TN: from junction Interstate Hwy 64 and U.S. Hwy 127, over U.S. Hwy 127 to junction U.S. Hwy 150, then over U.S. Hwy 150 to junction U.S. Hwy 27, then over U.S. Hwy 27 to Chattanooga and return over the same route, serving no intermediate points, but serving junction U.S. Hwy 27 and U.S. Hwy 150 and the termini for purposes of joinder only; (16) between junction Interstate Hwy 64 and U.S. Hwy 27 and junction U.S. Hwy 27 and U.S. Hwy 150 over U.S. Hwy 27 serving no intermediate points, and serving the termini for purposes of joinder only; (17) between Lebanon, TN, and Atlanta, GA, from Lebanon over U.S. Hwy 231 to Murfreesboro, TN, then over U.S. Hwy 41 to Atlanta, and return over the same route, serving Murfreesboro and Chattanooga for purposes of joinder only; (18) between Murfreesboro, TN, and Atlanta, GA, from Murfreesboro over Interstate Hwy 24 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Atlanta, and return over the same route, serving no intermediate points, and serving Murfreesboro and Chattanooga, TN, for purposes of joinder only; (19) between Nashville and Murfreesboro, TN, (a) over U.S. Hwy 41, and (b) over Interstate Hwy 24, serving Murfreesboro for purpose of joinder only; and serving no intermediate points, and serving points in Wilson County, TN, as off-route points in connection with routes (1–19) above. (Hearing site: Atlanta, GA, or Memphis, TN.)

Note.—This republication clarifies routes (5)(b), (8), (10), (11), and (14)(a) and adds (19)(b).

MC 123669 (Sub-7F), filed May 24, 1979. Applicant: SILVER TRUCK, INC., P.O. Box 41, Austin, MN 55912. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *contract carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting (1) *corrugated shipping containers, corrugated sheets, and parts of corrugated shipping containers*, from White Bear Lake, MN, to points in WI, ND, IA, and SD, and the Upper Peninsula of MI, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction, under continuing contract(s) with Weyerhaeuser Company of Chicago, IL. (Hearing site: Minneapolis, MN.)

MC 125708 (Sub-173F), filed May 25, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IL 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *upholstered chairs*, from the facilities of La-Z-Boy Midwest, at Neosho, MO, to points in the United States (except AK and HI). (Hearing site: St. Louis, MO, or Washington, DC.)

MC 126118 (Sub-160F), filed May 23, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of plastic articles, from Wooster, OH, to points in AZ, CA, CO, NV, NM, OK, OR, TX, and WA. (Hearing site: Akron, OH, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 126118 (Sub-161F), filed May 23, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *lead ingots*, from Muncie, IN, to Murfreesboro, TN. (Hearing site: Chicago, IL, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 126119 (Sub-4F), filed May 24, 1979. Applicant: EASTERN MOTOR TRANSPORT, INC., P.O. Box 501, Richmond, VA 23204. Representative: Harold G. Hernly, Jr., 110 So. Columbus St., Alexandria, VA 22314. Transporting *petroleum products* (except asphalt and petrochemicals), from Fairfax, VA, to points in MD. (Hearing site: Washington, DC, or Houston, TX).

MC 126898 (Sub-8F), filed May 23, 1979. Applicant: BULLDOG HIWAY EXPRESS, a corporation, P.O. Box 506, Charleston, SC 29402. Representative: Frank A. Graham, Jr., 707 Security Federal Bldg., Columbia, SC 29201. Transporting (1) *general commodities* (except classes A and B explosives), in marine containers, (2) *marine containers*, and (3) *chassis*, between Wilmington, NC, Charleston, SC, Savannah, GA, and Jacksonville, FL. (Hearing site: Columbia, SC, or Charlotte, NC.)

MC 128698 (Sub-20F), filed May 23, 1979. Applicant: ERDNER BROS., INC., Davidson Road, Swedesboro, NJ 08085. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW., Washington, DC 20005. Transporting *canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Division of H.J. Heinz Company, at or near Holland, MI, to points in DE, MD, NJ, DC, and those in PA on and east of Interstate Hwy 81, and those in NY on, south, and east of a line beginning at the CT–NY State line and extending along Interstate Hwy 84 to junction Interstate Hwy 87, and then along Interstate Hwy 87 to New York, NY, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Washington, DC, or Pittsburg, PA.)

MC 133689 (Sub-275F), filed May 24, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in CT, MA, and RI, to the facilities of The Charter Oak Shippers Cooperative Association, Inc., at Berlin and Danbury, CT, and those points in the United States in and east of ND, SD, NE, KS, MO, AR, and LA (except ME, NH, VT, MA, CT, and RI). (Hearing site: St. Paul, MN.)

MC 138018 (Sub-51F), filed May 23, 1979. Applicant: REFRIGERATED FOODS, INC., P.O. Box 1018, Denver, CO 80201. Representative: Joseph W. Harvey (same address as applicant). 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, in tank vehicles), from the facilities used by Farmland Foods, Inc., at or near (a) Carroll, Denison, Iowa Falls, Cherokee, Des Moines, Fort Dodge, and Sioux City, IA, and (b) Lincoln and Omaha, NE, to points in AZ, CA, CO, ID, MT, NV, HM, OR, UT, WA, and WY, restricted to the

transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Omaha, NE.)

MC 138308 (Sub-74F), filed May 25, 1979. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between the facilities of Kimberly-Clark Corporation at or near Corinth, MS, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Jackson, MS, or Washington, DC.)

Note.—Dual operations may be involved.

MC 138308 (Sub-75F), filed May 25, 1979. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *foodstuffs* (except in bulk), from the facilities of Welch Foods, Inc., at or near (a) North East, PA, and (b) Westfield, NY, to points in AL, AR, GA, KS, LA, MS, MO, NM, OK, TN, and TX. (Hearing site: Washington, DC, or Westfield, NY.)

Note.—Dual operations may be involved.

MC 138308 (Sub-76F), filed May 25, 1979. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628. Transporting (1) *battery boxes*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, in tank vehicles), between the facilities of the Richardson Company, at or near (a) Indianapolis, IN, (b) Philadelphia, MS, and (c) City of Industry, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Jackson, MS, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 138308 (Sub-77F), filed May 25, 1979. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39203. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *foodstuffs* (except in bulk), from the facilities of Welch Foods, Inc., at or near Kennewick, WA, to points in AZ, CA, CO, ID, NV, and UT. (Hearing site: Washington, DC, or Westfield, NY.)

Note.—Dual operations may be involved.

MC 139579 (Sub-11F), filed May 24, 1979. Applicant: GEORGE H. GOLDING, INC., 5879 Marion Dr., Lockport, NY 14094. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *heaters, air conditioning parts, and storage bins*, between Lockport, NY, on the one hand, and, on the other, points in MI and OH, under continuing contract(s) with Harrison Radiator Division General Motors Corporation, of Lockport, NY. (Hearing site: Buffalo, NY.)

Note.—Dual operations may be involved.

MC 140389 (Sub-61F), filed May 25, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30315. 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 Swift & Company, at (a) Clovis, NM, (b) Guymon, OK, and (c) Cactus, TX, to points in AL, FL, GA, NC, SC, and TN. (Hearing site: Chicago, IL.)

MC 140389 (Sub-62F), filed May 25, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlanta, GA 30305. Transporting *foodstuffs* (except in bulk), from points in FL, to points in AL, AZ, AR, CA, CO, GA (except Atlanta), ID, KS, LA, MS, MT, NE, NV, NM, NC, ND, OR, SC, SD, UT, WA, and WY. (Hearing site: Orlando, FL.)

MC 140829 (Sub-258F), filed May 24, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David King (Same as applicant). Transporting *wooden doors*, from the facilities used by Buell Door Company, at or near Dallas, TX, to points in CO, IL, IN, KS, MO, NE, and OH, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 141958 (Sub-16F), filed May 22, 1979. Applicant: FEDCO FREIGHTLINES, INC., P.O. Box 422, Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *groceries*, from the facilities of Swift & Co., at Bradley, Chicago, and Des Plaines, IL, to St. Louis, MO, under continuing contract(s) with Swift & Co., of Chicago, IL, and (2) *plastic products, chemicals, and such commodities* as are dealt in by food and drug business houses, (except commodities in bulk), from Chicago and Des Plaines, IL, to Bridgeton and St. Louis, MO, under continuing contract(s) with Dry Storage Corporation, of Chicago, IL. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 142909 (Sub-6F), filed May 25, 1979. Applicant: TIMBER TRUCKING, INC., 4100 So. West Temple, Salt Lake City, UT 84107. Representative: Miss Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *crushed scrap automobiles and parts of crushed scrap automobiles*, (a) from Pocatello, ID, to points in ID, UT, WY, OR, WA, and CA, (b) from points in UT to points in ID, and (c) from points in WY to points in WA, OR, and ID. (Hearing site: Salt Lake City, UT)

Note.—Dual operations may be involved.

MC 145018 (Sub-8F), filed May 24, 1979. Applicant: NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Transporting (1) *paper bags and wrapping paper, and* (2) *materials and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, from the facilities of Terminal Paper Bag Co., Inc., at or near Yulee, FL, to points in PA, NY, NJ, OH, MD, VA, WV, and DC, restricted in (1) and (2) to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Harrisburg, PA.)

MC 145738 (Sub-9F), filed May 24, 1979. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 525, Selmer, TN 38375. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, NE., Atlanta, GA 30326. Transporting *fiberglass products*, and *materials, equipment, and supplies* used in the manufacture and distribution of fiberglass products (except commodities in bulk), from Irwindale, CA, and Nashville, TN, to points in CA, FL, GA, IL, IN, LA, MA, MI, MN, NH, NY, NC,

OH, OK, TN, TX, and VA. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 146438 (Sub-2F), filed May 23, 1979. Applicant: ETV, INC., P.O. Box 393, Comstock Park, MI 49321. Transporting (1) (a) *frozen foods*, from the facilities of Lloyd J. Harriss Pie Co., at or near (i) Saugatuck, MI, and (ii) Louisville, KY, to points in AL, AZ, AR, CA, CO, DE, FL, GA, ID, KS, LA, MD, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, and WY, and (b) *materials and supplies* used in the manufacture and distribution of the commodities in (1)(a) above, (except commodities in bulk), in the reverse direction, and (2) *frozen foods*, from the facilities of Saluto Foods Coproration, at or near (a) Benton Harbor, MI, and (b) Montgomery and Fort Payne, AL, to points in CA, OR, WA, NV, UT, CO, FL, GA, AL, NC, SC, VA, MD, PA, NY, NJ, DE, and DC, and (b) *equipment, materials, and supplies* used in the manufacture of frozen foods (except commodities in bulk), in the reverse direction, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 146648 (Sub-2F), filed May 22, 1979. Applicant: NIMCO TRUCKING, INC. 308 South 25th Street Boise, ID 83706. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *scrap metal, batteries, and compressed automobile bodies and parts*, from the facilities of Northern Iron & Metals, Inc., at Boise, ID, to points in CA, OR, UT, and WA, under continuing contract (s) with Northern Iron & Metals Co., Inc., of Boise, ID. (Hearing site: Boise, ID, or Portland, OR.)

MC 146839 (Sub-2F), filed May 24, 1979. Applicant: T. C. TRANSPORTATION, INC., 299 Lawrence Avenue, South San Francisco, CA 94080. Representative: Michael S. Rubin, 256 Montgomery Street, San Francisco, CA 94104. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in San Francisco, San Mateo, Alameda, Santa Clara, Sacramento, Fresno, and Los Angeles Counties, CA, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: San Francisco or Los Angeles, CA.)

MC 147099 (Sub-1F), filed May 23, 1979. Applicant: RAUCH INDUSTRIES, INC., 6048 S. York Rd., Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW, Washington, DC 20005. To operate as a *contract carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting *such* commodities as are dealt in by department stores, from Charlotte and Hickory, NC, to the facilities of M. O'Neil Company, at or near Mogadore and Akron, OH, under continuing contract(s) with M. O'Neil Company, a subsidiary of May Department Store, Inc., of Akron, OH. (Hearing site: Akron, OH.)

MC 147218 (Sub-1F), filed May 17, 1979. Applicant: AMERICAN CHOICE TRANSPORT, INC., 614 East Main Street, Lewisville, TX 75067. Representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, TX 75202. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *peanuts and peanut products, vegetable oil, pickles, honey, agricultural seeds, and fertilizer* (except commodities in bulk), between the facilities of Portales Valley Mills, Inc., American Nut Corporation, and Choice Products, Inc., at or near (a) Lewisville, TX, and (b) Portales, NM, on the one hand, and, on the other, points in CA, AZ, NM, CO, TX, OK, KS, MO, IL, WI, AR, LA, MS, TN, AL, GA, and FL, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, from points in CA, AZ, NM, CO, TX, OK, KS, MO, IL, WI, AR, LA, MS, TN, AL, GA, and FL, to the facilities named in (1) above, under continuing contract(s) with Portales Valley Mills, Inc., of Portales, NM, and American Nut Corporation and Choice Products, Inc., both of Lewisville, TX. (Hearing site: Dallas, TX, or Washington, DC.)

MC 147429F, filed May 23, 1979. Applicant: JACKSON TRANSFER, INC., 328 Foxfire Drive, Columbia, SC 29210. Representative: C. Jack Pearce, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036. Transporting *meats, meat products, and meat by-products, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from Glenwood, Des Moines, Sioux City, and Marshalltown, IA, Guymon, OK, Clovis, NM, and Cactus, TX, to points in AL, FL, GA, MS, NC, SC, and TN. (Hearing site: Washington, DC, or Atlanta, GA.)

MC 147439F, filed May 23, 1979. Applicant: SEABOARD WAREHOUSE TERMINALS, INC., 3455 Northwest 54th Street, Miami, FL 33142. Representative: Bernard C. Pestcoe, 511 Biscayne Building, 19 West Flagler Street, Miami, FL 33130. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tobacco products*, from the facilities of Seaboard Warehouse Terminals, Inc., in Dade, Broward, and Palm Beach Counties, FL, to West Palm Beach FL, restricted to the transportation of traffic having a subsequent movement by water, under continuing contract(s) with Brown & Williamson Tobacco Corp., of Louisville, KY. (Hearing site: Miami, FL, or Washington, DC.)

MC 147449F, filed May 24, 1979. Applicant: KNEZ BUILDING MATERIALS CO., INC., 8185 S. W. Hunziker Rd., Tigard, OR 97223. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Transporting *lumber*, from Washougal, WA, and Clatskanie, Willamina, and Swisshome, OR, to points in CA. (Hearing site: Portland, OR.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-36030 Filed 11-21-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79-28163 appearing at page 52917 in the issue for Tuesday, September 11, 1979, make the following correction:

On page 52928, in the third column, in the fourth paragraph "MC 104896 (Sub-56F)" for "Womeldorf, Inc.", the 14th line reading "in the United States and east of MN, IA," should be corrected to read "in the United States in and east of MN, IA,".

BILLING CODE 1505-01-M

Permanent Authority Decisions; Decision-Notice

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest

under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perfcrm 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 December 24, 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.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 214

Decided: Nov. 2, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 55709 (Sub-12F), filed February 26, 1979. Applicant: ANDING TRANSIT, INC., P.O. Box 112, Arena, WI 53503. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. Transporting *cheese*, between the facilities of Rochester Cold Storage, at or near Rochester, MN, and points in WI. (Hearing site: Madison, WI, or Chicago, IL.)

MC 98327 (Sub-32F), filed September 11, 1979, and previously published in the FR issues of December 7, 1978 and April 6, 1979. Applicant: SYSTEM 99, a Corporation, 8201 Edgewater Drive, Oakland, CA 94621. Representative: Michael J. O'Neill, (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 Tacoma, WA, and Medford, OR, over Interstate Hwy 5, as an alternate route for operating convenience only, serving no intermediate points. (Hearing site: Portland, OR, or Seattle, WA.)

Note.—This republication is to eliminate the phrase "and serving the termini for purposes of joinder only."

MC 113908 (Sub-468F), filed February 22, 1979. Applicant: ERICKSON TRANSPORT CORP., 2105 E. Dale St., P.O. Box 10068, G.S., Springfield, MO 65804. Representative: B. B. Whitehead (Same address as applicant). Transporting (1) *cat litter*, from Viroqua, WI, to points in AR, CO, IL, IN, IA, KS, KY, MI, MO, MT, MN, NE, ND, OH, OK, SD, TN, and WY; (2) *fertilizer and de-icer*, in bulk, from Viroqua, WI, to points in AR, CO, KY, MO, MT, OK, TN, and WY; and (3) *fertilizer and de-icer*, in containers, from Viroqua, WI, to points in IN, OH, IL, IA, KS, MI, MN, NE, SD, and ND. (Hearing site: Kansas City, MO, or Washington, DC.)

MC 115826 (Sub-348F), filed September 11, 1978, and previously published in the FR issue of April 3, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (Same address as applicant). Transporting (1) *safety clothing and equipment* for the protection of workers, and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of the commodities named in (1) above, (3) *abrasives and abrasive products*, (4) *drilling, coring* and *mining bits*, (5) *sealants*, (6) *power tools and parts* for power tools, (7) *materials, equipment*, and *supplies* used in the manufacture and distribution of industrial ceramics, plastic and synthetic articles, chemical process, mining and petroleum products, and *commodities* dealt in by a manufacturer of such commodities, (except commodities in tank vehicles), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the

facilities of Norton Company; and its subsidiaries, Boyles Bros. Drilling Co., Christensen, Inc., Christensen Diamond Products, USA, Metals Processing, Inc., Air Space Devices, Inc., and Norton International Inc. (Hearing site: Denver, CO.)

Note.—This republication is to include Norton Company subsidiaries.

MCRBI 120098 (Sub-31F), filed December 6, 1978, previously published in **Federal Register** issue January 18, 1979. Applicant: UINTAH FREIGHTWAYS, A Corporation, 1030 South Redwood Road, Salt Lake City, UT 84104. Representative: Robert L. Bloomquist, (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 Vernal, UT, and Denver, CO, over U.S Highway 40, serving all intermediate points between Vernal, UT, and Craig, CO, (2) between Baggs, WY, and Denver, CO, from Baggs over WY Hwy 789 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Cheyenne, WY, then over Interstate Hwy 25 to Denver, and return over the same route, serving no intermediate points, (3) between Franklin, ID, and Salt Lake City, UT: from Franklin over U.S Hwy 91 to junction Interstate Hwy 15, then over Interstate Hwy 15 to Salt Lake City, and return over the same route, serving no intermediate points, (4) between Price, UT, and Denver, CO: from Price over U.S. Hwy 6 to Grand Junction, CO, then over U.S. Hwy 6 to Denver, and return over the same route, serving no intermediate points, and (5) between Salt Lake City, UT, and Dever, CO: from Salt Lake City over Interstate Hwy 30 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Cheyenne, WY, then over Interstate Hwy 25 to Denver, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points. (Hearing site: Salt Lake City, UT.)

Note.—Applicant intends to tack this authority with its existing regular-route authority. The purpose of this republication is to make notice of the intent to tack.

Volume No. 215

Decided: Nov. 2, 1979.

By the Commission, Review Board Number 2. Members Boyle, Eaton, and Liberman.

MC 134599 (Sub-165F), filed September 7, 1978, previously published in **Federal Register** issue of October 19, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting *crated office furniture, and parts* for office furniture, from the facilities of Steelcase, Inc., at or near Tustin, CA, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC, under continuing contract(s) with Steelcase, Inc., of Grand Rapids, MI. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

Note.—Dual operation may be involved. This republication adds VA and DC as destination points.

Volume No. 216

Decided: Nov. 2, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 113106 (Sub-64F), filed November 2, 1978, and previously published in the FR issue of February 20, 1979. Applicant: THE BLUE DIAMOND COMPANY, a corporation, 4401 East Fairmount Avenue, Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. NW., Washington, DC 20005. Transporting *such commodities* as are dealt in or used by manufacturers of glass and plastic products (except commodities in bulk), between points in CT, DE, FL, GA, MA, MD, NC, NH, NJ, NY, OH, PA, RI, SC, VA, and DC, restricted to the transportation of traffic either originating at the facilities of Thatcher Glass Manufacturing Company, Division of Dart Industries, Inc., as destined to the named points in the States involved, or originating at the points in the States involved and destined to the facilities of Thatcher Glass Manufacturing Company, Division of Dart Industries, Inc. (Hearing site: Washington, DC.)

Note.—This republication is to correctly reflect restriction.

MC 113666 (Sub-150F), filed February 8, 1979, and previously published in the FR issue of July 19, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: William H. Shawn, Suite 501, 1730 M Street, NW., Washington, DC 20036. Transporting (1) *refractory products*, and *materials* and *supplies* used in the production and installation of refractory products, and *brick* (except liquid commodities, in bulk, in tank vehicles), from points in AL, IN, IL, MD, MI, NJ, NY, TN, and VA, to the ports of entry on the international boundary line between the United States and Canada at points in MN, MI, NY, ME, NH, and VT, and (2) *refractory products*, and *materials* and *supplies* used in the production and installation of refractory products, *brick* and *insulation material* (except liquid commodities in bulk, in tank vehicles), from Girard, IL, to those points in the United States in and east of WI, IL, KY, TN, and MS. (Hearing site: Chicago, IL, or Pittsburgh, PA.)

Note.—This republication is to correctly reflect the territorial description.

MC 144688 (Sub-12F), filed February 26, 1979, and previously published in the FR issue of March 29, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household appliances, and materials, equipment, and supplies* used in the manufacture and distribution of household appliances (except commodities in bulk), from the facilities of General Electric Company, at or near Louisville, KY, to points in FL, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Louisville, KY, or Omaha, NE.)

Note.—This republication changes the origin point.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-36026 Filed 11-21-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 227
Friday, November 23, 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: 10 a.m., November 27, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Proposed temporary exemption from the One-Minute Timing Requirement of Rule 1.35(a).

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2271-79 Filed 11-20-79; 2:34 pm]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., November 27, 1979.

PLACE: 2033 K Street, NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2272-79 Filed 11-20-79; 2:34 pm]

BILLING CODE 6351-01-M

3

COPYRIGHT ROYALTY TRIBUNAL.

TIME AND DATE: 10 a.m., December 5 and 6.

PLACE: 2000 L Street, NW., Room 500.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Distribution of 1978 jukebox royalties.
2. Oral argument on legal issues of cable television royalties distribution.

FOR FURTHER INFORMATION CONTACT: Douglas Coulter, Chairman, Copyright Royalty Tribunal (202) 653-5175.

Douglas Coulter,

Chairman.

[S-2273-79 Filed 11-20-79; 2:34 pm]

BILLING CODE 1410-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., Tuesday, November 20, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Commission Closed Meeting.

CHANGES IN THE MEETING: Deletion of an item at the request of the Executive Director.

Agenda, Item No., and Subject

General—1—Senior Executive Service Performance Appraisal and Compensation System.

Additional information concerning this item may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: November 20, 1979.

[S-2277-79 Filed 11-20-79; 3:45 pm]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 P.M., TUESDAY, NOVEMBER 20, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Commission Open Meeting.

CHANGES IN THE MEETING: Deletion of Agenda Items and Change in the Order the Commission will Consider the Agenda.

The following items have been deleted:

Agenda, Item No., and Subject

Private Radio—5 Title: Eligibility of the Organization of American States (OAS) for licensing in the General Mobile Radio Service. Summary: Application by the OAS for a license in the General Mobile Radio Service (Subpart A of Part 95 of the Commission's Rules) for the operation of a two-way communication system, pursuant to Section 310 of the Communications Act, 47 U.S.C. § 310. (At the request of the Office of General Counsel.)

Aural—1—Title: Memorandum Opinion and Order in re application of Hall Broadcasting Co., Inc. (BPH-10,663) Summary: The FCC considers its grant of the above application to change transmitter location and increase antenna height of Station WIYD-FM, Palatka, Florida, in the light of the parties' failure to consummate a companion assignment of license of the station. (At the request of the Broadcast Bureau.)

Television—1—Title: Application of WSET-TV, Inc. for CP to make major changes in facilities of WSET-TV, Lynchburg, Virginia (BPCT-5001). Summary: WSET proposes to change site and make other changes, resulting in location closer to Roanoke, Virginia, and farther from Lynchburg. Questions raised with respect to short-spacing, UHF impact and other matters. Petition to deny and informal objection are also considered. (At the request of the Broadcast Bureau.)

As the Commission's first order of business, the following item will be considered:

Complaints and Compliance—4—Complaint of the Carter-Mondale Committee against the ABC, CBS and NBC Television Networks.

Additional information concerning these items may be obtained from Mareen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: November 19, 1979.

[S-2278-79 Filed 11-20-79; 3:45 pm]

BILLING CODE 6712-01-M

6

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, November 27, 1979 at 10:00 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This hearing will be open to the public.

MATTER TO BE CONSIDERED: At the request of the Udall '76 Committee and pursuant to former 11 CFR § 134.2(b), the Commission will hold a public hearing on Tuesday, November 27, 1979, at 10:00 a.m. at which time the Committee will be given an opportunity to dispute the Commission's determination that the Committee must repay $62,449.22 in matching funds to the U.S. Treasury.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S–2270–79 Filed 11–20–79; 11:29 am]

BILLING CODE 6715–01–M

7

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, November 27, 1979, following Public Hearing.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Personnel. Audit Policy-Materiality Threshold.

DATE AND TIME: Thursday, November 29, 1979 at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED IN OPEN SESSION:

Setting of dates for future meetings.
Correction and approval of minutes.
Certification.
Advisory Opinions: 1. Draft AO 1979–56, Ms. Barbara S. M. Kretchmar, Corporate Counsel, Scott Paper Company. 2. Draft AO 1979–59, Mr. Harold F. Fendius, Assistant Treasurer, Container Corporation of America Political Action Committee. 3. Draft AO 1979–60, Mr. F. Coulter de Vries (Hoisting and Portable Engineers Local Union 101 and political action committee).
Audit advisory panel.
Final audit reports for the National Federation of Republican Women and the National Black Republican Council.
Bookkeeping manuals.
1980 elections and related matters.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administrative matters.

MATTERS TO BE CONSIDERED IN CLOSED SESSION: Personnel.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S–2276–79 Filed 11–20–79; 3:24 pm]

BILLING CODE 6715–01–M

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: November 28, 1979, 10 a.m.

PLACE: Room 12126 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Puerto Rico Maritime Shipping Authority seven percent general increase between ports in Puerto Rico and ports in the U.S. Virgin Islands and fifteen percent general increase between ports in Puerto Rico and ports in Canada via Elizabeth, New Jersey and between United States Atlantic and Gulf ports and ports in Puerto Rico.
2. Agreements Nos. 9427–6 and 9552–4: Modifications to rate agreements to conform to Commission General Order 7.
3. Dynamic International Freight Forwarders, Inc.—Application for independent ocean freight forwarder license.
4. Special Docket No. 655: Application of Sea-Land Service, Inc. for the Benefit of Trade Winds Importing Co.—Review of initial decision.
5. Docket No. 79–52: Filing of Petitions for Reconsideration and Stay—Proposed final rules.
6. Docket No. 79–27: Eastern Forwarding International, Inc.—request to enter into settlement negotiations for penalty claims.
7. Docket No. 79–74: Japan/Korea-Atlantic and Gulf Freight Conference (Agreement No. 3103–67—Extension of Intermodal Authority)—Motions for permission to file rebuttal and for confidential treatment.
8. Docket No. 78–46: Financial Exhibits and Schedules Non-Vessel Operating Common Carriers in the Domestic Offshore Trades—Review of comments.

Portion Closed to the Public

1. Continental Forwarding, Inc.—Application for independent ocean freight forwarder license.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–2279–79 Filed 11–20–79; 3:49 pm]

BILLING CODE 6730–01–M

9

[NM–79–42]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, November 29, 1979.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first item will be open to the public; the last two items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Inlet Marine, Inc., Gates Learjet Century III, Model 25C, N77RS, Anchorage International Airport, Anchorage, Alaska, December 4, 1978.
2. *Opinion and Order*—Administrator v. Dickman, Dkt. SE–3768; Administrator v. Corrons, Dkt. SE–3769; disposition of the Administrator's appeal.
3. *Opinion and Order*—Petition of McHenry, Dkt. SM–2316; disposition of respondent's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

November 20, 1979.

[S–2275–79 Filed 11–20–79; 3:24 pm]

BILLING CODE 4910–58–M

10

POSTAL RATE COMMISSION.

TIME AND DATE: 3 p.m., November 29, 1979.

PLACE: Conference Room, Room 500, 2000 L St., NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Docket No. MC78–1 (Parcel post.)

[Closed pursuant to 5 U.S.C. 552b(c)(10).]

CONTACT PERSON FOR MORE INFORMATION: D. Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone (202) 254–5614.

[S–2267–79 Filed 11–19–79; 3:52 pm]

BILLING CODE 7715–01–M

11

POSTAL RATE COMMISSION.

TIME AND DATE: 11:30 a.m., November 21, 1979.

PLACE: Conference Room, Room 500, 2000 L St., N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Docket No. MC78–2 (Third-class presort.)

[Closed pursuant to 5 U.S.C. 552b(c)(10).]

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268, Telephone (202) 254–5614.

[S–2268–79 Filed 11–19–79; 3:53 pm]

BILLING CODE 7715–01–M

12

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., December 3 1979.

PLACE: Conference Room, Room 500, 2000 L St., NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Docket No. MC78–3 (E–COM.)

[Closed pursuant to 5 U.S.C. 552b(c)(10).]

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268, Telephone (202) 254–5614.

[S–2269–79 Filed 11–19–79; 3:53 pm]

BILLING CODE 7715–01–M

13

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 (FR 66128, November 16, 1979.)

STATUS: Closed meetings.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, November 16, 1979.

CHANGES IN THE MEETING: Additional meeting/item.

The following additional closed meeting will be held on Tuesday, November 20, 1979, at 2:00 p.m.

The subject matter of the closed meeting will be:

Regulatory matter bearing enforcement implications.

The following additional item will be considered at a closed meeting scheduled for Tuesday, November 20, 1979, immediately following the 2:30 p.m. open meeting:

Formal order of investigation.

Chairman Williams and Commissioners Loomis, Evans, Pollack and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: John Ketels at (202) 272–2468.

November 20, 1979.

[S–2274–79 Filed 11–20–79; 3:24 pm]

BILLING CODE 8010–01–M

federal register

Friday
November 23, 1979

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

Missouri. MO79–4076

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Florida:	
FL79–1068	Apr. 13, 1979.
New Jersey:	
NJ79–3013	June 22, 1979.
Oklahoma:	
OK79–4074	Aug. 3, 1979.
Texas:	
TX79–4005	Jan. 5, 1979.
TX79–4036	Aug. 17, 1979.
TX79–4051	May 4, 1979.
TX79–4086	Oct. 5, 1979.
Virginia:	
VA79–3049	Nov. 9, 1979.
VA79–3051	Nov. 9, 1979.

Supersedes Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedes decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL79–1043 (AL79–1140)	Mar. 9, 1979.
AL79–1046 (AL79–1142)	Mar. 16, 1979.
Georgia:	
GA78–1089 (GA79–1149)	Oct. 13, 1978.
Missouri:	
MO77–4272 (MO79–4093)	Sept. 30, 1977.
New York:	
NY79–3016 (NY79–3040)	July 6, 1979.
Oklahoma:	
OK78–4055 (OK79–4097)	June 9, 1978.
OK78–4056 (OK79–4098)	June 16, 1978.
OK78–4058 (OK79–4100)	June 16, 1978.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C. this 16th day of November 1979.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

NEW DECISION

STATE: Missouri COUNTY: Cole
DECISION NO. MO79-4076 DATE: Date of Publication
DESCRIPTION OF WORK: Building projects,(excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	13.26	.90	1.04		
BOILERMAKERS	12.15	1.15	1.00		.03
BRICKLAYERS, STONEMASONS, TILE LAYERS	10.60		.35		
CARPENTERS:					
Carpenters	10.50	.33	.30		
Millwrights	11.25	.33	.30		
Piledrivers	10.90	.33	.30		
CEMENT MASONS	10.55				
ELECTRICIANS:					
Electricians	12.53	.47	3%	7%+.30	.01
Cable Splicers	12.78	.47	3%	7%+.30	.01
GLAZIERS	11.95	.88	1.58	13.2%	.01
LABORERS:					
General Laborer; Watchman; Flagmen; Heaters; Material Plant Man; Carpenter Tender; Landscaper; Signalman; Wrecker (old/new structures); Form Handler; Post hole Digger; Cleaning & clearing of all debris for all crafts; Loading & unloading, conveying, distributing, collecting & hoisting of construction material & debris; Backfilling, grading & landscaping; Covering of tanks, structures & material piles with tarpaulins or other material handled by Laborers; Handling & cleaning of concrete chutes; Cleaning of concrete spills & chipping where hand tools are required	8.60	.50	.25		
First Semi-Skill All tools run by gas, electricity or air; Air compressors;motor buggies;					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONTD.): Pumps; Unloading & handling steel: Jackhammer & Chipping Tool Operator; Concrete Mixer Operator (up to & including two-bag capacity)	$8.75	.50	.25		
Second Semi-Skill Brick Mason, Plasterer & Cement Finishers, Tenders & Mortarmen; Scaffold Builders for Brick, Plasterer & Cement Masons; Forklifts; Concrete Pumps; Tile Layers, Bottom Men, Sewers & Drains; Cutting Torch; Trench or Pier Holes 12' or over; Wagon Drill, Air Track or any Mechanical Drill; Powder Man; Laborers working for Mechanic & Electrical Contractors (including but not limited to,digging all trenches, ditches, holes, paving of concrete & cleaning of all trash); Paving Breaker; Laser Beam Man.	8.85	.50	.25		
IRONWORKERS	12.075	.55	1.05		.09
LATHERS	10.85				.01
PAINTERS:					
Brush	10.20		.20		
Spray; structural steel; stage or saddle; sandblasting	10.70		.20		
PIPEFITTERS	12.95	2.165	1.51		
PLASTERERS	9.75				
PLUMBERS	12.505	.80	.80	.80	.20
POWER EQUIPMENT OPERATORS: Group I Backhoe; cableway; crane, crawler or truck; crane, hydraulic truck or cruiser mounted 16 tons & over; crane, locomotive, derrick, steam; derrick car & derrick boat; dragline; dredge; gradall, crawler or tire mounted;					

POWER EQUIPMENT OPERATORS (GROUP I CONTD.):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
locomotive, gas, steam & other powers; piledriver, land or floating; scoop, skimmer; shovel, power (steam, gas, electric or other powers); switch boat; whirley	$12.12	.75	1.00		
Group II					
Air tugger w/air compressor; anchor placing barge; asphalt spreader; Athey force feeder loader (self-propelled); backfilling machine; boat oper. push boat or tow boat (job site); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine, footing foundation; bullfloat; cherry picker; combination concrete hoist & mixer such as mixermobile; compressor (when operator runs throttle); compressors, two not more than 50' apart; compressor-generator combination; compressor pump combination; compressor welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as pumpcrete machine; concrete spreader, conveyor, large (not self-propelled) hoisting or moving brick & concrete into, or into & on floor level, one or both; cranes hydraulic rough terrain, self-propelled; crane, hydraulic truck or cruiser					

POWER EQUIPMENT OPERATORS (GROUP II CONTD.)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
mounted under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills & any hand-drills obtaining power from other sources including concrete breakers, jackhammers & Barco equipment no engineer required); elevating grader, engine man, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; fork lift; grader road with power blade; highlift; hoist, concrete & brick (brick cages or concrete skips operating in or on tower, tower-mobile, or similar equipment); hoist, stack; hydrohammer; lad-a-vator, hoisting brick or concrete; loading machine (such as Barber-Greene); mechanic, on job site; mixer, paving; mixer-mobile; mucking machine; pipe wrapping machine; plant, asphalt; plant, concrete producing or ready-mix job site; plant, heating job site; plant, mixing job site; plant, power, generating job site; pumps, two self-power over 2" through 6"; pumps, electric submersible, one through three, over 4"; quad-Track;					

POWER EQUIPMENT OPERATORS (GROUP II CONTD.)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
roller, asphalt, top or subgrade; scoop, tractor drawn; spreader box; subgrader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take offs, & attachments regardless of size; trenching machine, tunnel boring machine, vibrating machine, automatic, propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine	$12.12	.75	1.00		
Group III					
Air tugger w/plant air; boiler, for power or heating shell of buildings or temporary enclosures in connection with construction work; boiler, temporary; compressor, air one; compressor, air (mounted on truck); concrete saw, (self-propelled); conveyor, large (not self-propelled); conveyor, large (not self-propelled moving brick & concrete (distributing) on floor level; curb finishing machine, ditch paving machine; elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30kw or any number developing over 30kw;					

POWER EQUIPMENT OPERATORS (GROUP III CONTD.)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
greaser; hoist, one drum regardless of size (except brick or concrete); lad-a-vator; manlift; mixer, asphalt, over 8 cu. ft. capacity; mixer, if two or more mixers of one bag capacity or less are used by one Employer on job, an operator is required; mixer, without side loader, 2 bag capacity or more; mixers, with side loader, 2 bag capacity or more mixer, with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, sump-self powered, automatic controlled over 2" during use in connection with construction work; scissor lift (used for hoisting); sweeper, street; tractor small wheel type 50 h.p.& under with grader blade & similar equipment; welding machine, one over 400 amp.; winch operating from truck; mechanic in shop	$10.87	.75	1.00		
Group IV					
Boat operator outboard motor (job site); conveyors, (such as convay-it) regardless of how used; oiler; sweeper, floor	10.27	.75	1.00		
Group V					
(a) Air-pressure; oiler engineer operating under ten pounds	12.82	.75	1.00		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (GROUP V CONTD.)					
(b) Air-pressure, oiler engineer operating over ten pounds	$13.67	.75	1.00		
(c) Air-pressure engineer operating under ten pounds	14.12	.75	1.00		
(d) Air-pressure oiler engineer operating over ten pounds	14.87	.75	1.00		
(e) Crane, climbing (such as linden); crane, pile driving & extracting; crane, using rock socket tool; derrick, diesel, gas or electric, hoisting material erecting steel (150' or more above ground); dragline, 7 cu. yds. & over; hoist, three or more drums in use; scoop, tandem; shovel, power 7 cu. yds. & over; tractor, tandem crawler tunnel man assigned to work in tunnel or tunnel shaft; wrecking, when machine is working on second or higher; crane-booms (including jib) 100 ft. to 150 ft.	12.62	.75	1.00		
Crane, boom (including jib) 150 ft. to 300 ft.	13.12	.75	1.00		
ROOFERS:					
Roofers	11.20		.35	.30	
Roofers in coal tar pitch	11.70		.35	.30	
SHEET METAL WORKERS	11.26	.50	.36		
TRUCK DRIVERS:					
Warehousemen, Dumper, Flatbed & pick-up	7.65	.50	.50	d	
Tandem, trailer, float, winch & hi-lift	8.05	.50	.50	d	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (Contd.):					
Tandem-slip-bed operation	$8.35	.50	.50	d	
FOOTNOTE:					
d - After 1 year a weeks vacation					
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	11.38	.895	.69	3%+a	.025
Elevator Constructors Helpers	70%JR	.895	.69	3%+a	.025
Elevator Constructors Helpers (probationary)	50%JR				
FOOTNOTES:					
a - Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years as Vacation Pay Credit, also 7 Paid Holidays.					
SPRINKLER FITTERS	13.24	.75	1.05		.08

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (ii)).

Decision # FL79-1068-Mod #4 (44-FR-22309-April 13,1979) Cape Canaveral, Kennedy Space Flight Center, Patrick Air Force Base, and Melabar Radar Site, Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	12.10	.55	.65		.06
Ironworkers	10.28	.65	.75	.65	.05
LABORERS:					
Air tool operators; Concrete laborers; Hod Carriers; Mason tenders; Mortar mixers; Kettlemen (excl. roofing & waterproofing); Pipelayers; Powdermen; Form setters (paving & curbing & gutter); Well point & dewatering	10.28	.65	.75	.65	.05
	6.28	.60	.30		
Gunnite laborer	7.12	.60	.30		
Gunnite nozzlemen	7.52	.60	.30		
Unskilled laborers	6.70	.60	.30		
PLUMBERS: PIPEFITTERS: STEAMFITTERS:					
Commercial	10.50	.54	.56		.05
Industrial (power houses, Chemical Plants, Missile Sites, Oil Refineries, Bulk Plants, etc., & such other work which is related to & considered a part thereof)	12.29	.67	.64		.05

DECISION NO. NJ79-3013 - Mod. #2 (44 FR 36661 - June 22, 1979) Atlantic County, New Jersey	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
IRONWORKERS	$13.03	1.24	1.36		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR. 5.5 (a)(1)(ii)).

DECISION #OK79-4074-Mod. #2
(44 FR 45864 -August 3, 1979)
Oklahoma, Cleveland, Caddo, Canadian, Kingfisher, Logan, Lincoln, McClain, Grady, Seminole & Pottawomie Cos., Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
CARPENTERS (ZONE I)					
Carpenters	$ 9.30	.55	.50		.05
Power saw operator	9.55	.55	.50		.05
Millwrights-Piledrivermen	10.60	.55	.80		.09
CARPENTERS (ZONE II)					
Carpenters	10.35	.55	.80		.09
Millwrights-Piledrivermen	10.60	.55	.80		.09
Power saw operator	10.60	.55	.80		.09
CARPENTERS (ZONE III)					
Carpenters	11.25				
CARPENTERS (ZONE IV)					
Carpenters	9.20	.55	.35		
Millwrights-Piledrivermen	10.025	.55	.35		
CARPENTERS (ZONE V)					
Carpenters	7.25				
LABORERS:					
ZONE I					
Group I	8.15	.25	.40		
Group II	8.40	.25	.40		
ZONE II					
Group I	6.80	.25	.40		
Group II	7.05	.25	.40		
ZONE III					
Group I	6.95	.25	.40		
Group II	7.25	.25	.40		
ZONE IV					
Group I	6.65	.25	.40		
Group II	6.90	.25	.40		
POWER EQUIPMENT OPERATORS:					
Group I	12.55	.70	.50		.12
Group II	12.05	.70	.50		.12
Group III	11.55	.70	.50		.12
Group IV	11.30	.70	.50		.12
Group V	12.05	.70	.50		.12
Group VI	10.80	.70	.50		.12
Group VII	10.55	.70	.50		.12
Group VIII	9.55	.70	.50		.12
SHEET METAL WORKERS	12.20	.60	.88		.05
SPRINKLER FITTERS	12.79	.75	1.05		.08

DECISION NO. OK79-4074-Mod. #2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
POWER EQUIPMENT OPERATORS:					
Group IX	$ 8.75	.45	.50		.12
Group X	8.75	.45	.50		.12
Group XI	8.75	.45	.50		.12
POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS					
ADD:					
POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (as follows)					

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 300' of boom or over (including jib)

GROUP II
All crane type equipment with 200-300' of boom (including jib)

GROUP III
All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more

GROUP IV
Sideboom (booms 30' and over); Guy Derrick

GROUP V
Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant operator; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydor crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' and longer mast); motor patrol (blade);

GROUP VI
Fork lift (35' and over); dozer (engine h.p. 65 or over); Fordson tractor or like equipment with hoe or loader equipment or ditcher; scraper type equipment; loader operator of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type

DECISION NO. OK79-4074 - Mod. #2

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII

Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist - when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with a Frame; roller, all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor-with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed operator; concrete pump; form grader; screening plant; will point pump operator; signal man on large whirleys when and if required; operator for rotary drilling machines when operated from console or machines

GROUP VIII

Permanent elevator - building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. and under (1 or 2); wilding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer operator; fuelman; truck crane oiler driver or crane oiler; conveyor operator-single-continuous belt bulk handling; asphalt lay machine back end man

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX79-4005 - MOD. #8 (44 FR 1675 - January 5, 1979) Bee, Klebera & Nueces Counties, Texas					
OMIT:					
Plumbers & steamfitters	$ 8.565	.335	.35		.035
ADD:					
Plumbers & pipefitters	11.09	.45	.35		.04
DECISION NO. TX79-4036 - MOD. #4 (44 FR 48594 - August 17, 1979) Galveston & Harris Counties Texas					
CHANGE:					
Painters:					
East Harris County:					
Group 1	13.33				
Group 2	13.685				
Group 3	13.425				
Group 4	13.58				
Group 5	13.725				
Group 6	13.99				
DECISION NO. TX79-4051 - MOD. #5 (44 FR 26535 - May 4, 1979) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas					
CHANGE:					
Asbestos workers	11.36	.70	.96		.03
Bricklayers & stonemasons:					
Zone 2	11.49	.45	.50		.07
Zone 3	11.49	.45	.50		.04
Carpenters:					
Zone 2 - Carpenters	11.15	.60	.45		.07
Millwrights	12.07	.60			.07
Glaziers	10.13	.40	.55		.025

MODIFICATION PAGE 7

DECISION NO. TX79-4051(CONTD)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Ironworkers - Zone 1	$10.53	.55	1.15		.07
Laborers:					
Zone 2 - Group 1	6.86	.30	.40		.02
Group 2	7.01	.30	.40		.02
Group 3	7.11	.30	.40		.02
Group 4	7.26	.30	.40		.02
Lathers	11.58				.04
Marble, tile & terrazzo workers:					
Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos.	10.47		.30		
Painters:					
Zone 1 - Group 1	10.255	.55	.60		.07
Group 2	10.505	.55	.60		.07
Group 3	10.63	.55	.60		.07
Group 4	10.38	.55	.60		.07
Zone 2 - Group 1	11.215		.20		.12
Group 2	11.465		.20		.12
Group 3	12.465		.20		.12
Roofers:					
Zone 1 - Group 1	9.905				
Group 2	9.755				
Zone 2 - Group 1	9.855				.05
Group 2	9.705				.05
Sheet metal workers-Zone 1	11.14	.50	.84		.135
Zone 2	11.26				.09
Soft floor layers	10.39	.40	.40		.03
Power Equipment Operators:					
Zone 1 - Group 2	10.22	.65	.90		
Group 3	10.62	.65	.90		
Zone 2 - Group 2	10.02	.65	1.90		.10
Group 3	10.42	.65	1.00		.10

MODIFICATION PAGE 8

DECISION NO. TX79-4086 - MOD. #2 (44 FR 57632 - October 5, 1979) Bexar County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Elevator constructors:					
Mechanics	$11.21	1.045	.82	4%+a+b	.035
Helpers	70%JR	1.045	.82	4%+a+b	.035
Helpers (Prob.)	50%JR				
Plumbers & pipefitters	12.74	.60	.55		.10
Sheet metal workers	11.93	3%+.45	.96		.09

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. 79-VA-3049 - MOD. #1 (44 FR 65313 - November 9, 1979) Counties of Accomack, Greensville, Isle of Wight, James City, Northhampton, Southampton, Surry, Sussex, York and the Cities of Emporia, Franklin, Suffolk, and Williamsburg, Virginia					
OMIT: PILEDRIVER LEADSMEN	$4.50				
DECISION NO. 79-VA-3051 - MOD. #1 (44 FR 65315 - November 9, 1979) Counties of Caroline, Essex, Gloucester, King, George, King & Queen, King William Lancaster, Mathews, Middlesex, Northumberland, Richmond, Spotsylvania, Stafford, WestMoreland, and the Independent City of Fredericksburg. Virginia					
OMIT: IRONWORKER, REINFORCING HELPER	$ 3.75				

STATE: Alabama
DECISION NUMBER: AL79-1140
Supersedes Decision No.: AL79-1043 dated March 9,1979 in 44 FR-13213
COUNTIES: *See below
DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction Projects (does not include residential construction consisting of single family homes and apartments up to and including 4 stories).

*Counties: Jefferson, Shelby, St. Clair & Walker

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	12.46	.55	.80		.05
Boilermakers	9.95	1.05	1.05		.02
Bricklayers:					
Bricklayers; pointers; caulkers; stonemasons	10.35	.40	.50		.13
Cleaners	9.25	.40	.50		.13
Carpenters:					
Carpenters, soft floor layers	10.24	.60	.40		.07
Millwrights	11.25				.07
Piledrivermen	10.44	.60	.40		.07
Cement masons	9.65	.60			.10
Electricians:					
Electricians	12.05	.55	3%+.40		⅛
Cable splicers	12.30	.55	3%+.40		⅛
Elevator constructors	10.56	.895	.69	a&b	.03
Glaziers	9.68	.50	.50		.01
Ironworkers	11.60	.60	.82		.06
Lathers	9.73		.10		.01
Marble setters	9.55		.50		
Painters:					
Brush (Commercial)	10.80		.70		
Spray; Structural steel	11.30		.70		
Paperhangers	10.95		.70		
Plasterers	9.80	.60			.10
Plumbers and pipefitters	11.45	.58	.65		.09
Roofers	8.90		.20		.10
Sheet metal workers	10.80	.79	1.07		.09
Sprinkler fitters	11.94	.75	1.05		.08
Terrazzo workers; Tile setters	10.30		.50		
Tile, Marble, Terrazzo finishers	7.50				

AL79-1140 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers:					
Up to but not including 1½ tons	7.05	.40			
1½ to but not including 3 tons	7.25	.40			
3 tons to but not including 5 tons	7.50	.40			
5 tons and over including special equipment	7.65	.40			
Heavy Duty - off the road trucks	7.75	.40			
Welders, rigger, riveters - receive rate prescribed for craft performing operation to which welders riggers, and riveters are incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. 6 paid holidays: A through F.

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	7.23	.40	.45		.03
GROUP B	7.18	.40	.45		.03
GROUP C	7.12	.40	.45		.03
GROUP D	7.07	.40	.45		.03
GROUP E	7.50	.40	.45		.03
GROUP F	7.98	.40	.45		.03
GROUP G	7.87	.40	.45		.03
GROUP H	7.92	.40	.45		.03
GROUP I	7.82	.40	.45		.03
GROUP J	7.66	.40	.45		.03
GROUP K	8.67	.40	.45		.03

GROUP A
Air or electrical tool operators and asphalt rakers
GROUP B
Vibrator operators, chain saw operators, operators of mechanical equipment which replaces wheelbarrows or buggies, power mowers, mortar mixers, pipe layers, concrete and clay and muckers
GROUP C
Plasterers' tenders and hod carriers
GROUP D
Mason tenders, building laborers
GROUP E
Burners on demolition, wagon drill operators and tunnel laborers
GROUP F
Powderman
GROUP G
Caisson-driller (10'Dia)
GROUP H
Tunnel miner
GROUP I
Pneumatic concrete gun operator and nozzleman
GROUP J
Chuck tender
GROUP K
Oxagon operator

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	10.04	.40	.30		.10
GROUP B	9.51	.40	.30		.10
GROUP C	8.44	.40	.30		.10
GROUP D	10.74	.40	.30		.10
GROUP E	10.03	.40	.30		.10
GROUP F	8.57	.40	.30		.10

GROUP A
Asphalt plant, boom tractor, bulldozer, cableways, core driller, compressors (2 or more), crane-derrick-dragline, dinky locomotive, dredges, fork lift, front end loader, gradall, heavy duty mechanic, hoist (1 drum or more), mixers, push tractor, scrapers, shovels, trenching machine,(and all similar equipment), winch trucks, motor graders, concrete pump, piledriver, rotary drill

GROUP B
Air compressor (over 125), asphalt spreaders, blade graders (pull type), boat operator, conveyor (2 or more up to 4), crawler tractor, distributors, (bituminous surface), farm tractors, finishing machine, pumps over 4 inches, rollers, welding machine (4 or more)

GROUP C
Air compressor (125 & under), oilers-firemen, conveyor (1) tended by oiler), pumps (under 4 inches), welding machines (3 or under)

GROUP D
ON STEEL ERECTION: Crane, dragline, derricks, hoist, piledrivers winch truck, fork lift, tower cranes, climbing cranes, cherry picker, mechanics, locomotives, tug boat

GROUP E
Tractors, welding machine, gas or diesel driven welding machine (4 or more), air compressors over 125 (2 or less), power generating units (gas or diesel)

GROUP F
Gas or diesel driven welding machine (3 or less), air compressor 125 and under (2 or less), oiler, fireman, small boat

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)

SUPERSEDEAS DECISION

STATE: Alabama COUNTIES: *See below
DECISION NO.: AL79-1142 DATE: Date of Publication
Supersedes Decision No.: AL79-1046 dated March 16, 1979 in 44 FR-16305
DESCRIPTION OF WORK: Building construction projects (does not include single family homes and apartments up to and including 4 stories)

*Counties: Lawrence, Limestone, Morgan

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	12.46	.55	.80		.05
Bricklayers:					
Bricklayers, Marble masons, Stonemasons, Pointers, Cleaners, Caulkers	11.00				
Carpenters:					
Carpenters, & Soft Floor layers	8.60	.45	.35		.03
Millwrights	9.24	.45	.35		.03
Piledrivermen	9.00	.45	.35		.03
Cement masons	10.25				
Electricians:					
Electricians, linemen	11.30	.50	3%+.50		1%
Cable splicers	11.55	.50	3%+.50		1%
Groundmen	10.05	.50	3%+.50		1%
Elevator Constructors	10.56	.895	.69	a+b	.03
Ironworkers:					
Ornamental, reinforcing, structural	9.805	.70	.70		.08
Laborers (Lawrence County):					
Laborers, mason tenders, plasterers' tenders	5.90	.30	.45		
Air tool operators (jackhammer, vibrator, mortar mixers, pipelayers	6.10	.30	.45		
Laborers (Limestone & Morgan Counties):					
Laborers, mason tenders	5.55	.35	.50		
Air tool operator (jackhammer, vibrator), mortar mixer	5.80	.35	.50		
Plasterers & Troweling machine operator	10.50				
Plumbers, pipefitters, steamfitters: Lawrence Co. (Eastern portion of Co., north from intersection of State Rt. 33 Rt. 20 to Wheeler Lake including Moulton &Wren excluding Bankhead National Park), Limestone Co. & Morgan Co.	11.50	.60	.60		.15

AL79-1142 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers, steamfitters: Lawrence Co., (Remaining portion)	10.70	.50	.60		.08
Roofers	8.90		.20		.10
Sheet metal workers	10.80	.79	1.07		.11
Terrazzo workers & tile setters	10.75				

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day

FOOTNOTES:
a. 6 paid holidays: A through F.

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in the business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in the business less than 5 years.

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	10.53	.50	.45		
GROUP B	9.19	.50	.45		
GROUP C	8.47	.50	.45		

GROUP A - Backhoe, bulldozer, crane, crane car, central mixing plant, concrete pump, derrick, dragline, dredge, drill, elevating grader, finishing machine (concrete), forklift, front end loader, gradall, grout pump, helicopter pilot, hoist, locomotive engineer, mechanic, motor patrol, mucking machine, piledriver, post hole digger, scraper (pull type & self prop.), shovel, sweeper, tractor (spec. equip,), trenching machine, well point & winch truck operators.

GROUP B - Bituminous dist., central air comp., concrete mixer (port.) fireman floating equip., front end loader, rubber tire, ½ cu. yd. & under, locomotive brakeman, locomotive flagman, locomotive switchman, oiler-driver (35 ton crane & over outboard motor boat (when used for towing), paving machine, portable hoist "Buck hoist type", post hole digger mounted on farm type tractor & walk behind type trenching machine operators

GROUP C - Air compressor (port) conveyor, fireman stationary equip., oiler, outboard motor boat & pump operators

Oiler - driver - additional $.10 per hour

All cranes, derricks & gantry operators operating such equipment with an overall height of 150, including jibs; all scraper operators - (in tandem) additional $.25 per hour.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: GEORGIA COUNTY: RICHMOND
DECISION NUMBER: GA79-1149 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA78-1089, dated October 13,1978, in 43 FR 47427.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including four stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.85	.45	.25		.02
BOILERMAKERS	10.70	1.05	1.10		.02
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, TERRAZZO WORKERS, & PLASTERERS	9.40				
CARPENTERS	9.85				.02
CEMENT MASONS	9.00				
ELECTRICIANS:					
Wiremen	10.41	.50	3% + .30		¼ of 1%
Cable splicers	10.66	.50	3% + .30		¼ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.62	.895	.69	a + b	.03
Helpers	6.73	.895	.69	a + b	.03
IRONWORKERS - Structural, Reinforcing, & Ornamental	10.30	.70	.90		.03
LABORERS:					
Building & Construction laborers	5.60	.20			.10
Power & air tool operators, concrete or clay pipelayers, & wipers, mortar mixers, & power buggy operators	5.75	.20			.10
Powderman, wagon drill operators, tunnel laborers, shaft laborers, burners, acetylene (demolition work), slip form workers (steel or wood, screw or jack type), potman, creosote materials handler, steel form setter (on grade), chimney or stack workers	5.80	.20			.10
LATHERS	7.65				

DECISION NO. GA79-1149

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen & Heavy equipment operators (cranes, draglines & 5th wheel tractors);	$10.41	.50	3% + .30		½ of 1%
Cable splicers	10.66	.50	3% + .30		½ of 1%
Equipment operators (hole digging equipment, tractor with winch & derrick, anchor machine, backhoe, & ground rod drivers);	8.54	.50	3% + .30		½ of 1%
Truck operators	6.45	.50	3% + .30		½ of 1%
Groundmen	5.83	.50	3% + .30		½ of 1%
MILLWRIGHTS	10.85				.02
PAINTERS:					
Brush & 9" roller, & drywall finisher	7.60	.45	.30		
Paper hanging, sign painting, glazing, structural steel (painting & cleaning) excluding metal doors & frames	8.10	.45	.30		
Power tools, all type epoxy & chemical materials, such as bitumastic, conaps, clornate, all stage work, window jacks, botsun chair, ladder jacks & built-up scaffold, extension ladder over 36'	8.60	.45	.30		
Regular spray & gloves	8.85	.45	.30		
Blasting	9.10	.45	.30		
PILEDRIVERMEN	10.25				.02
PLUMBERS & PIPEFITTERS	11.43	.60	.70		.07
ROOFERS	3.60				
SHEET METAL WORKERS	9.35				.04
SPRINKLER FITTERS	11.94	.75	1.05		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. GA79-1149

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cranes, derricks, draglines, side booms, cherry pickers, mechanics, piledrivers, crawlers, backhoes (3/4 cy. & up), concrete pumps, clam shells, drill operators, concrete mixer plants, locomotives, two-drum hoists, shovels, generators (250 KW & UP), and hydraulic cranes over 10 tons, and finish motor graders;	$10.83	.55	.50		.02
Bulldozers, hydraulic boom trucks (10 tons & Under), scrapers, end loaders, fork tractors, one drum hoists, air compressors (600 CFM & OVER), tuggers, rollers, plain tractors, fireman, rubber tired backhoes (less than 3/4 cy.), push dozer, and trenching machine;	9.40	.55	.50		.02
Oiler, pump operators (over 4" diameter), air compressors under 600 CFM;	8.46	.55	.50		.02
Mechanics' tenders, servicing welding machines, and pumps (up to 4" diameter).	6.48	.55	.50		.02

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 8% of the basic hourly rate for employees with 5 years or more of service, or 6% of the basic hourly rate for employees with 6 months to 5 years of service as Vacation Pay Credit.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Missouri

COUNTIES: Franklin, Jefferson, Lincoln, St. Charles, Warren, & City & County of St. Louis

DECISION NO. MO79-4093

DATE: Date of Publication

Supersedes Decision No. MO77-4272 dated September 30, 1977, in 42 FR 53071

DESCRIPTION OF WORK: Residential projects, consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.26	.90	1.04		
BRICKLAYERS; STONEMASONS	11.90	.72	.70	.90	.03
CARPENTERS:					
Zone I - St. Louis City & County	11.66	.75	.90		
Zone II - St. Charles County	11.00	.65	.70		
Zone III - Lincoln & Warren Counties	10.35	.65	.70		
Zone IV - Jefferson County	9.25	.50	.70		
Zone V - Franklin County	10.00	.70	.80		
CEMENT MASONS:					
Zone I - Franklin, Lincoln & Warren Counties:					
Projects less than $100,000.00	9.50	1.00	.95		
Projects $100,000.00 & over	10.15	1.00	.95		
Zone II - Jefferson & St. Charles Counties & St. Louis City & County	10.15	1.00	.95		
ELECTRICIANS:					
Zone I - City & County of St. Louis & St. Charles County	12.25	.70	3%+5½%	15½%	.10
Zone II - Franklin, Jefferson, Lincoln & Warren Counties where the electrical contracts exceeds $15,000.00	12.25	.70	3%+5½%	15½%	.10
Zone III - Franklin, Jefferson, Lincoln & Warren Counties where the electrical contracts does not exceed $15,000.00	11.46	.70	3%+5½%	15½%	.10
ELEVATOR CONSTRUCTORS	11.38	.895	.69	3%+a	.025
ELEVATOR CONSTRUCTORS HELPERS	70%JR	.895	.69	3%+a	.025
ELEVATOR CONSTRUCTORS HELPERS (Probationary)	50%JR				

FOOTNOTES:

a - Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years as Vacation Pay Credit, also 7 Paid Holidays.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS	$11.95	.88	1.58	13.2%	.01
IRONWORKERS	12.075	.55	1.05		.09
LABORERS:					
Residential rehabilitation work	6.05	.45	1.00		
Zone I - St. Louis City & County	9.775	.45	1.00		
Zone II - Lincoln & Warren Counties	9.725	.50	.50		
Zone III - Jefferson Co. Laborers	8.35	.50	.30		
Zone IV - Franklin County:					
Contracts $250,000.00 or less:					
General Labor	8.25	.60	.50		
Mason tenders, plumber laborer, plaster tender	8.45	.60	.50		
Contracts over $250,000.00:					
General Labor	9.75	.60	.50		
Mason tenders, plumber laborer, plaster tender	9.95	.60	.50		
Zone V - St. Charles County:					
Laborers	10.225	.50	.50		
LATHERS	11.955	.57	.55		½ of 1%
MARBLE SETTERS	10.86	.85	1.205		
MARBLE SETTERS HELPERS'	10.08				
PAINTERS:					
Zone I - St. Charles County:					
Brush, paperhangers, dry-wall tapers	8.40	.30			
Spray, steel, sand-blaster, pot tenders	9.66	.30			
Zone II - Franklin, Jefferson, Warren Counties & City & County of St. Louis:					
Brush	11.24	.68	.33		.08
Spray	12.74	.68	.33		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (CONTD.)					
Zone III - Lincoln County:					
Brush	5.90				
Spray	6.45				
PIPEFITTERS (Franklin, Jefferson, St.Charles, St.Louis & Warren Counties)	12.95	2.165	1.51		
PIPEFITTERS & PLUMBERS (Lincoln County)	12.95	2.165	1.51		
PLASTERERS	10.295	.48	.80		.03
PLUMBERS (Franklin, Jefferson, St.Charles, St.Louis & Warren Counties)	12.505	.80	.80	.80	.20
POWER EQUIPMENT OPERATORS:					
Zone I					
Group I	12.12	.50	1.00		
Group II	11.57	.50	1.00		
Group III	11.12	.50	1.00		
Group IV:					
(a)	11.47	.50	1.00		
(b)	12.32	.50	1.00		
(c)	12.77	.50	1.00		
(d)	13.52	.50	1.00		
(e)	12.62	.50	1.00		

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS (ZONE I)

Group I - Backhoe; cableway; crane, crawler or truck; crane, hydraulic-truck or cruiser mounted-16 tons & over; crane, locomotive; derrick, steam; derrick car & derrick boat; dragline; dredge; gradeall, crawler or tire mounted; locomotive gas, steam & other power; pile driver, land or floating; scoop, skimmer; shovel, power (steam, gas electric or other powers); switch boat; whirley; air tugger w/air compressor; anchor placing barge; asphalt spreader; athey force feed loader (self-propelled); back-filling machine; boat operator-push boat or tow boat (job site); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine, footing foundation; bullfloat; cherry picker, combination concrete hoist & mixer such as mixer-mobile; compressors, two, not more than 50 ft. apart; compressor-welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as pumpcrete machine; concrete spreader;

CLASSIFICATION DEFINITIONS (CONTD.)

POWER EQUIPMENT OPERATORS (ZONE I-GROUP I CONTD.)

conveyor, large (not self-propelled) hoisting or moving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-rough terrain, self-propelled; crane hydraulic-truck or cruiser mounted-under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills and any hand drills obtaining power from other sources including concrete breakers, jack-hammers and barco equipment); elevating greader; engine man, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; forklift; grader, road with power blade; highlift; hoist, concrete and brick (brick cages on concrete skips operating in or on tower, towermobile, or similar equipment); hoist, stack; hydro-hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as barber-greene); mixer-mobile, mucking machine, pipe cleaning machine; pipe wrapping machine; plant, asphalt; plant, concrete producing or ready-mix-job site; plant, heating-job-site; plant-mixing-job-site; plant, power generating-job site; pumps, two self-powered, over 2" through 6" pumps, electric submersible, one through three, over 4" quad-track; roller, asphalt, top or subgrade; scoop tractor drawn; spreader box; subgrader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take-offs, and attachments regardless of size; trenching machine, tunnel boring machine; vibrating machine, automatic, automatic propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine; mechanic on job site; mixer, paving.

Group II - Air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one; compressor, air (mounted on truck); concrete saw, self-propelled; conveyor, large (not self-propelled); conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level, curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30 kw or any number developing over 30 kw; greaser; hoist, one drum regardless of size (except brick or concrete); lad-a-vator, other hoisting; manlift; mixer, asphalt, over 8 cu. ft. capacity; mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; mixer, without side loader, 2 bag capacity or more; mixer with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, sump-self-powered, automatic controller over 2" during use in connection with construction work; sweeper, street; welding machine, one over 400 amp.; winch operating from truck; scissor lift (used for hoisting); curb finishing machine.

CLASSIFICATION DEFINITIONS (CONTD.)

POWER EQUIPMENT OPERATORS (CONTD.)

Group III - Boat operator-outboard motor (job-site); conveyor (such as con-vay-it), regardless of how used; oiler; sweeper, floor.

Group IV - (a)Air pressure; oiler engineer operating under ten pounds. (b)Air pressure, oiler engineer operating over ten pounds. (c)Air pressure engineer operating under ten pounds. (d)Air pressure engineer operating over ten pounds. (e)Crane-pile driving and extracting; crane using rock socket tool; dragline-7 cu. yds. & over; shovel, power-7 cu. yds. and over, crane, climbing (such as linden), derrick, diesel, gas or electric hoisting material and erecting steel 150' or more above ground, hoist, three or more drums; scoop, tandem; tractor, tandem crawler. Crane, with boom (including jib) over 100' from pin to pin (add 1¢ per foot to maximum of 1.00) above basic rate for cranes.

Work in tunnel or tunnel shaft, 50¢ above base rate.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition; slate & tile	$11.55	.82	.60		.03
Kettlemen	9.35	.82	.60		.03
SHEET METAL WORKERS	11.94	.56+3%	.76	.96	.04
SOFT FLOOR LAYERS	8.74	.58	.35	.50	.14
SPRINKLER FITTERS	13.81	.75	1.05		.12
TERRAZZO WORKERS	12.75				
TILE SETTERS	10.98	.85	1.205		.04
TILE SETTERS HELPERS	8.58	.325	.40		
TRUCK DRIVERS:					
Truck or trailers of a water level capacity of 11.99 cu. yds. or less fork lift trucks, job site ambulances, pick-up trucks flat bed trucks	6.99	d	e	f&g	
Truck or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids speedace & similar equipment of same capacity	7.19	d	e	f&g	
Truck or trailers of a water level of 22.0 cu. yds. & over including euclids, speedace & all floats, flat bed trailers & boom equipment of same capacity	7.29	d	e	f&g	

FOOTNOTES: d-Employer contribution of $12.50 per week; e-Employer contribution of $12.00 per week; f-Paid Holidays; New Years' Day, Memorial Day, Independence Day, Labor Day, Vererans Day, Thanksgiving Day, Friday after Thanksgiving Day, Christmas Day; g-Paid vacation of 3 days for 600 hours of service in any one contract year, 4 days paid vacation for 800 hours of service in any one contract year, 5 days paid vacation for 1,000 hours of service in any one contract year.

WELDERS - receive rate prescribed for craft performing operation to which is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii).

SUPERSEDEAS DECISION

STATE: New York COUNTIES: Albany, Rensselaer, Saratoga and Schenectady

DECISION NO. NY79-3040 DATE: Date of Publication

Supersedes Decision No. NY79-3016 dated July 6, 1979 in 44 FR-39922

DESCRIPTION OF WORK: Building Construction Projects (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.67	.95	.41		.02
BOILERMAKERS	11.80	.95	10%		.02
BRICKLAYERS, CEMENT MASONS, MARBLE MASONS, PLASTERERS, POINTERS, CAULKERS AND CLEANERS	10.90	.70	.75		.03
BRICKLAYERS, CEMENT MASONS MARBLE MASONS, PLASTERERS, POINTERS, CAULKERS AND CLEANERS: (Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use)	7.81	.70	.75		.03
CARPENTERS:					
Saratoga County (twps. of Day, Hadley, Edinburg, Corinth and Moreau):					
Carpenters & soft floor layers	10.70	.55	.90	a	.005
Millwrights	10.95	.55	.90	a	.005
Piledrivers	10.85	.55	.90	a	.005
Heavy and Highway	10.40	.55	.90		.025
Albany County, Rensselaer County, Saratoga County (remainder of County), & Schenectady County:					
Carpenters, Drywall Installers & Soft Floor Layer	11.03	.70	.85		.02
Millwrights	11.53	.70	.85		.02
Piledrivermen	11.70	1.50	1.78	.91	.04
Heavy and Highway	10.30	.70	.85	b	.025
Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONTD.): which is intended for predominantly residential use	$7.88	.70	.85		.02
CEMENT MASONS: Heavy and Highway	10.00	.70	1.00		
DIVERS	14.82	1.725	1.78	1.03	.05
DIVER TENDERS	11.43	1.725	1.78	1.03	.05
ELECTRICIANS: Albany County (Cohoes and Watervliet)	12.80	.70	3%+.70	a	.05
Albany County (remainder of County)	12.90	.75	3%+.60	c	.03
Rensselaer County (Schodack, Rensselaer, East Greenbush, Nassau and Stephentown)	12.90	.75	3%+.60	c	.03
Rensselaer County (remainder of County)	12.80	.70	3%+.70	a	.05
Saratoga County (Ganseveen Mt.McGregor, Schuylerville, Victory Mills, Wayville, Stillwater, Mechanicville and Waterford)	12.80	.70	3%+.70	a	.05
Saratoga County (remainder of County)	11.60	.70	3%+1.20	a	.03
Schenectady County	11.60	.70	3%+1.20	a	.03
ELEVATOR CONSTRUCTORS	10.77	.745	.56	d+e	.025
ELEVATOR CONSTRUCTORS HELPERS	7.54	.745	.56	d+e	.025
ELEVATOR CONSTRUCTORS HELPERS (Probationary)	5.385				
GLAZIERS	8.66	.48	.25		.01
IRONWORKERS: Structural, Ornamental, Reinforcing, Machinery Mover, Fence Erector, Rigger, Rodman and Stone Derrickman	11.10	.75	1.25		.08
Sheeters	11.35	.75	1.25		.08
Sheeters, Bucker-up Rehabilitation work on residential structures over 4 stories defined to include demolition	11.225	.75	1.25		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS (CONTD.): alteration and repair on any existing structure which is intended for predominantly residential use)	$7.58	.75	1.04		.04
LATHERS	10.46	.70	.30		.01
LATHERS (Rehabilitation work residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use)	7.59	.70	.30		.01
LEADBURNERS	10.75	.40	.25	d	.01
MARBLE TILE AND TERRAZZO WORKERS	10.40	.70	.75		
PAINTERS: Saratoga County (Twps. of Day, Hadley. Corinth, Moreau, Gansevoort and Mt. McGregor): Brush	9.20	.40	.35		
Window Jack, Structural Steel, Swing Scaffold, Bosun Chair and Bridge	9.40	.40	.35		
Spray, Sandblasting and Waterblasting	9.55	.40	.35		
Albany County, Rensselaer County, Saratoga County (remainder of County), Schenectady County: Brush	10.28		.35		
Structural Steel & Bridge	11.03		.35		
Swing Scaffold, Bosun Chair, Water Towers, Window Jacks, Flagpoles	10.78		.35		
Spray Gun Application & Sandblasting	12.13		.35		
PLUMBERS & STEAMFITTERS: Albany County (Green Island Watervliet and Latham), Rensselaer County (Northern					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS (CONTD.):					
half), Saratoga County (Twps of Halfmoon & Stillwater):					
Building, Heavy & Highway Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use)	$10.90	.60	1.00		.04
	8.175	.60	1.00		.04
Saratoga County (Twps. of Clifton Park, Galway, Milton & Atomic Projects at Malta and West Milton), Schenectady County	12.20	.85	1.05		.10
Saratoga County (remainder of County), Albany County (remainder of County), Rensselaer County (southern half)	12.30	.80	1.02	g	.05
Albany County (remainder of County), Rensselaer County (southern half), Saratoga County (remainder of County): Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use	9.07	.80	1.02		.05
ROOFERS:					
Roofers	11.30	1.37	.40		.04
Pitch and Asbestos	11.80	1.37	.40		.04
SHEET METAL WORKERS	11.87	1.00	1.32	h	.07
SHEET METAL WORKERS: Rehabilitation work on residential structures over 4 stories defined to include demolition					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS (CONTD.): alteration and repair on any existing structures which is intended for predominantly residential use	$7.47	.95	3%+.90	h	.05
SPRINKLER FITTERS	13.29	.75	1.05		.08
TRUCK DRIVERS, BUILDING: Straight, winch, transit mix on job site, road oilers, dump, panel, pick-up, water and fuel trucks on site (including nozzle)	9.37	1.00	.81	i	.12
Euclid or similar equipment	9.56	1.00	.81	i	.12
Lowboy or lowboy trailers	9.70	1.00	.81	i	.12
WELDERS-receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTES:

a. Holidays: Thanksgiving Day provided employee reports for work the day after the holiday.

b. Holidays: Labor Day and 4th of July.

c. Holiday: E, provided the employee works the day after the holiday, 3 hrs. before X-Mas and New Year's Eve.

d. Holidays: A thru F, Day after Thanksgiving.

e. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

g. Employer contributes $4.00 per day to a Vacation Fund.

h. 2 hours off with pay on the first Tuesday after the first Monday of November provided they are working on a job beyond 50 miles from the shop.

i. One week vacation after on year's work; 2 weeks after 5 years.

LINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead and Underground Distribution Work:					
Lineman & Technicians	$10.50	1.00	3%+.75	a	1½%
Cable splicers	13.70	1.00	3%+.75	a	1½%
Groundman Digging Machine Operator and Groundman Dynamiteman	9.45	1.00	3%+.75	a	1½%
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor-trailer units)	8.40	1.00	3%+.75	a	1½%
Groundman Truck Driver, Driver Mechanic, Groundman	7.825	1.00	3%+.75	a	1½%
All Overhead Transmission Line Work and Lighting for Athletic Fields:					
Lineman and Technicians	11.85	1.00	3%+.75	a	1½%
Groundman Digging Machine Operator, Ground Dynamiteman	10.665	1.00	3%+.75	a	1½%
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor-trailer unit)	9.48	1.00	3%+.75	a	1½%
Groundman Truck Driver, Driver Mechanic, Groundman	8.8875	1.00	3%+.75	a	1½%
All Pipe Type Cable Installations:					
Lineman and Groundman Equipment Operator	12.45	1.00	3%+.75	a	1½%
Cable splicer	13.695	1.00	3%+.75	a	1½%
Groundman Truck Driver, Groundman	9.3375	1.00	3%+.75	a	1½%
Sub-station, switching structures (when not part of the line), traffic signals, street lighting and electrical, telephone or CATV commercial work;					

LINE CONSTRUCTION (CONTD.):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lineman and Technicians	$12.45	1.00	3%+.75	a	1½%
Cable splicers	13.695	1.00	3%+.75	a	1½%
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver (tractor-trailer unit)	9.96	1.00	3%+.75	a	1½%
Groundman Truck Driver, Driver-Mechanic, Groundman, Groundman Dynamiteman, Groundman Digging Machine Operator	11.205	1.00	3%+.75	a	1½%
Telephone and other Communication Systems, Both Overhead and Underground:					
Lineman & Installer Repairmen	8.34	.40	3%+.75	a	1%
Splicers	8.89	.40	3%+.75	a	1%
Groundman Digging Machine Operator	7.73	.40	3%+.75	a	1%
Groundman	5.72	.40	3%+.75	a	1%
Groundman Truck Driver	6.82	.40	3%+.75	a	1%
Groundman Dynamiteman	6.60	.40	3%+.75	a	1%

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Paid Holidays: A through F, Washington's Birthday, Good Friday and Election Day for President of the United States and Governor of New York State, provided the employee works the day before and the day after the holiday.

Albany County (Cities of Cohoes and Watervliet)
Saratoga County (Twps. of Halfmoon and Stillwater)
Rensselaer County (Twps. of Berlin, Sand Lake, Poestenkill, Brunswick, Petersburg, Schagticoke, Pittstown, Hoosick and Grafton)

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$8.29	1.00	1.10	a	.10
CLASS B	8.49	1.00	1.10	a	.10
CLASS C	8.69	1.00	1.10	a	.10
CLASS D	8.89	1.00	1.10	a	.10
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS A
Laborers, drill tenders, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibratory, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

Albany County (entire County except Cities of Cohoes and Watervliet), Rensselaer County (Twps. of North Greenbush, East Greenbush, Schodack, Nassau and Stephentown)

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$8.39	.90	1.10	a	.10
CLASS B	8.59	.90	1.10	a	.10
CLASS C	8.79	.90	1.10	a	.10
CLASS D	8.99	.90	1.10	a	.10
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS A
Laborers, drill tenders, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibratory, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

Saratoga (Twps. of Day, Hadley, Edinburg, Corinth, Moreau, Wilton, Providence, Greenfield, Northumberland, Galway, Milton, Charlton, Saratoga Springs, Malta, Ballston and Clifton Park)
Schenectady County

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	8.64	.80	1.00	a	.05
CLASS B	8.84	.80	1.00	a	.05
CLASS C	9.04	.80	1.00	a	.05
CLASS D	9.24	.80	1.00	a	.05

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

LABORERS: HEAVY AND HIGHWAY CONSTRUCTION

CLASS A
Laborers, drill tenders, flagmen, outboard and hand boats.

CLASS B
Bull float, chain saw, concrete aggregate, bin, concrete bootman, gin buggy, hand or machine vibratory, jackhammer, mason tender, mortar mixer, pavement breaker, handlers of all steel mesh, small generators for laborers' tools, installation of bridge drainage pipe, pipelayers, vibrator type rollers, tamper, drill doctor, tail or screw op. on asphalt paver, water pump op. (1½" and single diaphram), nozzle (asphalt, gunnite, seeding and sandblasting), laborers on chain link fence erection, rock splitter and power unit, pusher type concrete saw and all other gas, electric, oil and air tool operators, wrecking laborer.

CLASS C
All rock or drill machine operators (except quarry master and similar type), acetylene torch op., asphalt raker, powderman.

CLASS D
Blasters, form setter, stone or granite curb setters.

Albany County: North to 1st Ave. in Watervliet, West on 1st Ave. (South side) to Lincoln Ave.; North on Lincoln Ave. (West side) to Watervliet-Shaker Rd. (route 155, south side) to Junction of Route 9; North on route 9 (west side) to Crescent Bridge and Mohawk River.
Rensselaer County: Twps. of North Greenbush, East Greenbush, Schodack, Nassau, Stephentown and Rensselaer City.

LABORERS: Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$6.57	.90	1.10		.12
GROUP II	6.695	.90	1.10		.12
GROUP III	6.71	.90	1.10		.12
GROUP IV	6.75	.90	1.10		.12
GROUP V	6.785	.90	1.10		.12
GROUP VI	6.77	.90	1.10		.12
GROUP VII	6.95	.90	1.10		.12
LABORERS, BUILDING:					
GROUP I	9.47	.90	1.10		.12
GROUP II	9.62	.90	1.10		.12
GROUP III	9.645	.90	1.10		.12
GROUP IV	9.695	.90	1.10		.12
GROUP V	9.745	.90	1.10		.12
GROUP VI	9.725	.90	1.10		.12
GROUP VII	9.945	.90	1.10		.12

Albany County: The west side of the Hudson River, extending westerly along the north side of 1st Street (Watervliet), to one-half mile of Route 9 to Shaker Rd. to Route 9 northerly to the north line of Albany County.
Rensselaer County: Twps. of Berlin, Sand Lake, Postenkill, Schodack, Pittstown, Hoosick, Brunswick, Grafton and Petersburg.
Saratoga County: Beginning southerly at the east side of Route 9, running northerly along Route 9 to Malta, including all of the Twp. of Stillwater, continuing along the east shore of Saratoga Lake to the Saratoga City Line, easterly of Saratoga City Line taking in all of the Twp. of Schuylerville. This includes all towns, cities and villages in forsaid counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use:					
GROUP I	$6.62	.95	1.00		.12
GROUP II	6.745	.95	1.00		.12
GROUP III	6.76	.95	1.00		.12
GROUP IV	6.80	.95	1.00		.12
GROUP V	6.835	.95	1.00		.12
GROUP VI	6.82	.95	1.00		.12
GROUP VII	7.00	.95	1.00		.12
LABORERS, BUILDING:					
GROUP I	9.37	1.00	1.10		.12
GROUP II	9.52	1.00	1.10		.12
GROUP III	9.545	1.00	1.10		.12
GROUP IV	9.595	1.00	1.10		.12
GROUP V	9.645	1.00	1.10		.12
GROUP VI	9.625	1.00	1.10		.12
GROUP VII	9.845	1.00	1.10		.12

Saratoga County: Twps. of Day, Hadley, Edinburg, Corinth, Moreau, South Glen Falls, Providence, Greenfield, Wilton, Northumberland, Galway, Milton, Saratoga Springs, Charlton, Ballston, Malta and Clifton Park.
Schenectady County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use:					
GROUP I	6.82	.80	1.00		.07
GROUP II	6.945	.80	1.00		.07
GROUP III	6.96	.80	1.00		.07
GROUP IV	7.00	.80	1.00		.07
GROUP V	7.035	.80	1.00		.07
GROUP VI	7.12	.80	1.00		.07
GROUP VII	7.20	.80	1.00		.07
LABORERS, BUILDING:					
GROUP I	9.72	.80	1.00		.07
GROUP II	9.87	.80	1.00		.07
GROUP III	9.895	.80	1.00		.07
GROUP IV	9.945	.80	1.00		.07
GROUP V	9.995	.80	1.00		.07
GROUP VI	9.97	.80	1.00		.07
GROUP VII	10.195	.80	1.00		.07

LABORERS DEFINITIONS (RESIDENTIAL REHABILITATION)
ALL AREAS

GROUP I
Laborers

GROUP II
Pipelayers (2 man team), mortar mixers (hand or machine), jackhammer operator, well pointing, concrete vibrators, all air or gas driven tools, hod carriers, power driven buggies.

GROUP III
Form setter (curb)

GROUP IV
Wagon drill operator

GROUP V
Acetylene burners

GROUP VI
Demolition

GROUP VII
Blasters

LABORERS DEFINITIONS (BUILDING CONSTRUCTION)
ALL AREAS

GROUP I
Laborers

GROUP II
Pipelayers (2 man team), mortar mixers (hand or machine), jackhammer operator, well pointing, concrete vibrators, power driven buggies.

GROUP III
Form setter (curb)

GROUP IV
Wagon drill operator

GROUP V
Acetylene burners

GROUP VI
Demolition

GROUP VII
Blasters

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$11.58	1.05	.85	a	.15
GROUP II	11.19	1.05	.85	a	.15
GROUP III	10.11	1.05	.85	a	.15
GROUP IV	9.15	1.05	.85	a	.15

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the day before and after the holiday.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION

GROUP I - Automated concrete spreader (CMI), automatic fine grader, backhoe (except tractor mounted, rubber tired), belt placer (CMI type), blacktop plant (automated), cableway, caisson auger, central mix concrete plant (automated), cherry picker (over 5 tons capacity), concrete pump (8" or over), crane, cranes & derricks (steel erection), dragline, dredge, dual drum paver, excavator (all purpose-hydraulically operated, (gradall or similar), fork lift (factor rated 15 ft. and over), front end loader(4 c.y. and over), head tower (sauerman or equal) hoist (2 or 3 drum), mine hoist, mucking machine or mole, over head crane (gantry or straddle type), piledriver, power grader, quarry master (or equivalent), scraper, shovel, sideboom, slip form paver, tractor drawn belt type loader, truck crane, tunnel shovel.

GROUP II - Backhoe (tractor mounted, rubber tired), bituminous spreader and mixer, blacktop plant (non-automated), blast or rotary drill truck or tractor mounted, boring machine, cage-hoist, central mix plant (non-automated and all concrete batching plants), cherry picker (5 tons capacity and under), compressors (4 or less) exceeding 2000 C.F.M. combined capacity concrete paver (over 16S), concrete pump (under 8"), crusher, diesel power unit, drill rigs (tractor mounted), front end loader (under 4 c.y.), hi-pressure - boiler (15 lbs. and over), hoist (one drum) Kolman plant loader and similar type loaders, locomotive maintenance/engineer/greaseman/welder, mixer (for stabilized base self-propelled), monorail machine, plant engineer, pump crete, ready mix concrete plant, refrigeration equipment (for soil stabilization), road widener, roller (all above subgrade), tractor with dozer and/or pusher, trencher, tugger-hoist, winch, winch cat.

POWER EQUIPMENT OPERATORS: HEAVY AND HIGHWAY CONSTRUCTION (CONTD.)

GROUP III - Asphalt curb and gutter machines, blower for burning brush, chipping machine and chip spreader, compressors: 4 not exceeding 2,000 c.f.m. combined capacity, 3 or less with more than 1,200 c.f.m. but not to exceed 2,000 c.f.m., compressor (any size but subject to other provisions for compressors), dust collectors, generators, pumps, welding machines (4 of any type or combination) concrete curing machines, conveyor drill core, drill well, electric pump used in conjuction with well point systems, farm tractor with accessories, fine grade machine hammers-hydraulic-self-propelled, hydraulic rock expander or similar type machine, hydraulic pump, motorized hydraulic pin puller and seeders, post hole digger and post driver, roller (grade and fill), tractor with towed accessories, vibratory compactor, vibro tamp, well point.

GROUP IV - Aggregate plant, boiler, C.M.I. and similar type concrete spreaders, cement bin operator, compressors: 3 or less not to exceed 1,200 c.f.m. combined capacity, compressors: (any size, but subject to other provisions, for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type of combination), concrete mixer (16S and under), concrete saw self-propelled, fireman, form tamper, mulching machine, oiler, power boom, power heaterman, revinius widener, steam cleaner, tractor.

POWER EQUIPMENT OPERATORS, BUILDING CONSTRUCTION: Albany County, Rensselaer County, Saratoga County & Schenectady County.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$11.03	1.05	.85	a	.15
GROUP II	11.10	1.05	.85	a	.15
GROUP III	11.24	1.05	.85	a	.15
GROUP IV	11.46	1.05	.85	a	.15
GROUP V	11.84	1.05	.85	a	.15
GROUP VI	12.02	1.05	.85	a	.15
GROUP VII	12.15	1.05	.85	a	.15

POWER EQUIPMENT OPERATORS
(BUILDING CONSTRUCTION):

GROUP I
Oilers

GROUP II
Firemen and heavy duty greasers, all boilers and steam generators.

GROUP III
Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines, well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4" and over.

GROUP IV
Dinky locomotives, Baber Greene loaders, loaders and conveyors, tractor, scoopmobiles, bulldozers, road roller, form fine graders, power brooms and sweeper.

GROUP V
Black top spreaders, black top roller, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well driller (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum).

GROUP VI
LeTourneau graders or scrapers, trenching machines, push cart.

GROUP VII
Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging ingines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CHB Vibrotamp or similar, Murphy type diesel generator-beltcrete system, side booms, hydro hammer, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D- Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.

Rehabilitation work on residential structures over 4 stories defined to include demolition, alteration and repair on any existing structure which is intended for predominantly residential use:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: Albany County, Rensselaer County, Saratoga County & Schenectady County:					
GROUP I	$7.40	.95	1.05	a	.15
GROUP II	7.45	.95	1.05	a	.15
GROUP III	7.55	.95	1.05	a	.15
GROUP IV	7.71	.95	1.05	a	.15
GROUP V	7.98	.95	1.05	a	.15
GROUP VI	8.10	.95	1.05	a	.15
GROUP VII	8.26	.95	1.05	a	.15

POWER EQUIPMENT OPERATORS
(BUILDING CONSTRUCTION):

GROUP I
Oilers

GROUP II
Firemen and heavy duty greasers, all boilers and steam generators.

GROUP III
Pumps, vibrators, concrete mixers, spreaders, concrete finishing machines, mortar mixers, air compressors, dust collectors, welding machines, well points, two or more Herman Nelson and like heaters, batch and plant op., seed and mulching machines, generators, temporary light plants, concrete pump, beltcrete power pac (beltcrete system), electric submersible pump 4" and over.

GROUP IV
Dinky locomotives, Baber Greene loaders, loaders and conveyors, tractor, scoopmobiles, bulldozers, road roller, form fine graders, power brooms and sweeper.

GROUP V
Black top spreaders, black top roller, high lifts, fork lifts, one drum hoist or hod hoists, post hole diggers, traxcavators, core and well driller (one drum), economobile and similar type machines, elevators, A-L frame winches, power hoisting (single drum).

POWER EQUIPMENT OPERATORS (CONTD.):
(BUILDING CONSTRUCTION)

GROUP VI
LeTourneau graders or scrapers, trenching machines, push cart.

GROUP VII
Tractor road pavers, cranes, power road graders, shovels, backhoes, draglines, pile drivers, hoists two or more drums, three drum engines, hysters, two drum and swinging engines, three drum swinging engine, locomotive cranes, gradalls, hydrocrane, model CHB Vibrotamp or similar, Murphy type diesel generator-beltcrete system, side booms, hydro hammer, tractor mounted drill (quarry master), euclid loaders, concrete pumps, all CMI equipment, concrete central mix plant, automated asphalt, concrete central plant, derrick, whirlies, tower cranes, cableways, hydraulic cranes, power hoisting (2 drum and over), mucking machine.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D- Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F.

TRUCK DRIVERS: HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$9.14	.95	.80	a	
CLASS 2	9.19	.95	.80	a	
CLASS 3	9.24	.95	.80	a	
CLASS 4	9.39	.95	.80	a	
CLASS 5	9.54	.95	.80	a	
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D- Labor Day; E-Thanksgiving Day; F- Christmas Day.					

FOOTNOTE:
a. Paid Holidays: A through F, provided the employee has worked the working day before and after the holiday.

TRUCK DRIVER: HEAVY AND HIGHWAY CONSTRUCTION

CLASS 1
Pick-ups, panel trucks, flatboy material trucks (straight jobs), single axle dump trucks, dumpsters and receivers, greasers, truck tiremen.

CLASS 2
Tandems, batch trucks mechanics.

CLASS 3
Semi-trailers, low-boy trucks, asphalt distributors trucks, agitator, mixer trucks and dumpcrete type vehicles, truck mechanic.

CLASS 4
Specialized earth moving equipment - euclid type or similar off-highway equipment, where not self loaded, and straddle (ross) carrier.

CLASS 5
Off-highway tandem back dump, twin engine equipment and double hitched equipment where not self loaded.

STATE: Oklahoma SUPERSEDEAS DECISION

COUNTIES: Tulsa, Creek Craig, Ottawa, Delaware, Mayes and Rogers

DECISION NO. OK79-4097 DATE: Date of Publication

SUPERSEDES DECISION NO. OK78-4055 dated June 9, 1978 in 43FR 25270

DESCRIPTION OF WORK: Building projects (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.60	.55	.85		.015
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS-STONEMASONS:					
Tulsa, Delaware, Ottawa, Craig and Rogers Counties	11.34	.70	.40	.33	.06
Mayes County	11.70	.60	.40		.05
CARPENTERS:					
Area I	9.68	.45	.75		.07
Area II	9.62	.50	.40		
MILLWRIGHTS-PILEDRIVERMEN:					
Area I	9.98	.45	.75		.07
Area II	9.87	.50	.40		

CARPENTERS-MILLWRIGHTS-PILEDRIVERMEN AREA DEFINITIONS
AREA I - Tulsa, Creek, Craig, Rogers and Mayes Counties
AREA II - Delaware and Ottawa Counties

CEMENT MASONS:					
Cement Masons	10.22		.40		.16
Power tool operator	10.47		.40		.16
ELECTRICIANS:					
Electricians	12.15	.59	3%+.58		.07
Cable splicers	12.40	.59	3%+.58		.07
ELEVATOR CONSTRUCTORS	10.81	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS'HELPER	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS'HELPER (Probationary 6 months)	50%JR				
GLAZIERS:					
Area I	10.49	.70	.30		.01
Area II	8.05			.25	

GLAZIERS AREA DEFINITIONS
AREA I - Tulsa, Creek, Mayes, and Rogers Counties
AREA II - Craig, Delaware and Ottawa Counties

IRONWORKERS	11.30	.75	.65		.12
LABORERS:					
Group I	8.15	.25	.40		
Group II	8.45	.25	.40		
Group III	8.55	.25	.40		
Group IV	9.00	.25	.40		

LABORERS CLASSIFICAION DEFINITIONS

GROUP I
All digging and dirt work, firing of salamanders and smudge pots; loading & unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures; cleaning when the man is directly tenders; and common laborers

GROUP II
All machines tool operators; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher laborer; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar & plaster mixing machine, pump-crete machines, and gunite mixing machines, including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale man on batch plants; all laborers screening snad, running sand drier, and feeding operating sand blaster, except nozzle; signalmen and cutting torch operators in connection with laborers work; concrete grader

GROUP III
Wagon drill operator

GROUP IV
Powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lathers	10.15				.01
LINE CONSTRUCTION:					
Linemen	10.60		3%		1/2%
Cable splicers	11.29		3%		1/2%
Hole digger operator	9.62		3%		1/2%
Heavy equipment operator (pole or cat equivalent)	9.62		3%		1/2%
Jackhammerman	7.93		3%		1/2%
Line truck (winch operator)	8.71		3%		1/2%
Powderman	9.62		3%		1/2%
Groundman	7.07		3%		1/2%
Truck driver (flat bed ton and half and under)	7.55		3%		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (Craig, Ottawa and Delaware Counties):					
Brush, roller, tapers and paperhangers	$ 7.92		.30		
Spray, steamclean, sandblast & pot tenders	8.295		.30		
PAINTERS (Tulsa, Creek, Rogers & Mayes Counties):					
Brush	10.90		.40		.07
Highwork & stage	11.30		.40		.07
Spray and sandblasting	11.55		.40		.07
Hot or bituminous	12.20		.40		.07
Sheetrock handtools	10.90		.40		.07
Sheetrock power tools	11.30		.40		.07
PIPEFITTERS	12.67	.60	.75		.08
PLASTERERS	10.15				.01
PLUMBERS	12.67	.60	.75		.08
POWER EQUIPMENT OPERATORS:					
GROUP I	12.55	.70	.50		.12
GROUP II	12.05	.70	.50		.12
GROUP III	11.55	.70	.50		.12
GROUP IV	11.30	.70	.50		.12
GROUP V	12.05	.70	.50		.12
GROUP VI	10.80	.70	.50		.12
GROUP VII	10.55	.70	.50		.12
GROUP VIII	9.55	.70	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - All crane type equipment with 300' of boom or over (including jib)
GROUP II - All crane type equipment with 100-200' of boom (including jib)
GROUP III - All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more
GROUP IV - Sideboom (booms 30' and over); Guy Derrick
GROUP V - Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant op.; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operation 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' and longer mast); motor patrol (blade)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VI

Fork lift (35' & over); dozer (engine h.p. 65 or over); Fordson tractor or like quipment with hoe or loader equipment or ditcher; scraper type equipment; loader op. of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type

GROUP VII

Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with a Frame; roller, all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed op.; concrete pump; form grader; screening plant; well point pump op.; signal man on large whirleys when & if required; operator for rotary drilling machines when operated from console or machines

GROUP VIII

Permanent elevator-building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. & under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer op.; fuelman; truck crane oiler driver or crane oiler; conveyor op.-single-continuous belt bulk handling; asphalt lay machine back end man;

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$10.40	.60	.25		.04
SHEET METAL WORKERS	12.06	.60	.66		.10
SOFT FLOOR LAYERS	7.71		.45	.81*	.03
*Plus 6 paid holidays - New Years Day; Memorial Day; July 4th; Labor Day; Thanksgiving and Christmas Day					
SPRINKLER FITTERS	12.79	.75	1.05		.08
TERRAZZO WORKERS	10.97	.70	.40		
TERRAZZO WORKERS AND TILE LAYERS FINISHERS	9.01	.70			
TERRAZZO WORKERS' FLOOR MACHINE OPERATOR	9.14	.70			
TERRAZZO WORKERS' BASE MACHINE OPERATOR	9.38	.70			
TILE LAYERS	10.97	.70	.40		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (DELAWARE CO.)					
Group I	$ 7.55				
Group II	7.65				
Group III	7.75				
Group IV	7.70				
Group V	7.85				
TRUCK DRIVERS (TULSA, CREEK, CRAIG, MAYES AND ROGERS COUNTIES):					
Group I	8.83				
Group II	8.88				
Group III	8.98				
Group IV	8.98				
Group V	8.98				

TRUCK DRIVERS CLASSIFICATION DEFINITION (DELAWARE COUNTY)

GROUP I - Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses

GROUP II - 3 tons or 4 yards and up to but not including 4 tons or 6 yards

GROUP III - 5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers

GROUP IV - Ready-mix concrete trucks up to but not including 3 yds.

GROUP V - Ready-mix concrete trucks 3 yards and over

TRUCK DRIVERS CLASSIFICATIONS DEFINITIONS (TULSA, CREEK, CRAIG, OTTAWA, MAYES AND ROGERS COUNTIES)

GROUP I - Truck drivers, including pick-up, 1½ tons or 2½ yards up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake body or bus driver.

GROUP II - 3 tons or 4 yards up to but not including 4 tons or 6 yds. or 6 yards

GROUP IV - Ready mix concrete truck

GROUP V - Tractor-trailer and similar equipment

FOOTNOTES:

a - 1st 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate.

b - Paid Holidays - A through F

PAID HOLIDAYS:

A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving Day; G-Christmas Day.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii)).

SUPERSEDEAS DECISION

STATE: OKLAHOMA COUNTY: Muskogee, Adair, Cherokee & Okmulgee

DECISION NO. OK79-4098 DATE: Date of Publication
Supersedes Decision No. OK78-4056 dated June 9, 1978 in 43 FR 25273
DESCRIPTION OF WORK: Building Projects (excluding single family homes & apartments up to and including 4 stories), and heavy construction within the City of Muskogee

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$12.20	.35	.75		.015
Boilermakers	10.55	.80	1.00		.02
BRICKLAYERS:					
Muskogee, Adair & Cherokee Counties	11.70	.60	.40		.05
Okmulgee County	11.25	.60	.40		.05
CARPENTERS (Area I)	9.53	.55	.75		.08
CARPENTERS (Area II)	8.35	.45	.75		.05
MILLWRIGHTS-PILEDRIVERMEN:					
Area I	10.03	.55	.75		.08
Area II	9.70	.45	.75		.05

CARPENTERS-MILLWRIGHTS-PILEDRIVERMEN AREA DEFINITIONS
AREA I - Muskogee, Adair and Cherokee Counties
AREA II - Okmulgee County

CEMENT MASONS (AREA I):					
Cement masons	9.90				
Power tool operator	10.15				
CEMENT MASONS (AREA II):					
Cement masons	10.22		.40		.16
Power tool operator	10.47		.40		.16

CEMENT MASONS & POWER TOOL OPERATORS AREA DEFINITIONS
AREA-I - Adair, Cherokee, Muskogee and Southern portion of Okmulgee Okmulgee Counties
AREA II - Northern portion of Okmulgee County

ELECTRICIANS:					
ZONE I - 20 mile radius from Post Office of City of Muskogee					
ZONE II - Area outside Zone I					
ZONE III - Okmulgee County					
ZONE I					
Electricians	11.70	.60	3%		1/2%
Cable splicers	12.10	.60	3%		1/2%
ZONE II					
Electricians	12.10	.60	3%		1/2%
Cable splicers	12.50	.60	3%		1/2%
ZONE III					
Electricians	12.15	.59	3%+.58		.06
Cable splicers	12.40	.59	3%+.58		.06
ELEVATOR CONSTRUCTORS	10.81	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS HELPER	70%JR	.545	.35	4%+a+b	.02
GLAZIERS	10.49	.70	.30		.01
IRONWORKERS	11.30	.75	.85		.12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (AREA I)					
Muskogee, Adair and Cherokee Counties					
GROUP I	$ 7.35	.25	.40		
GROUP II	7.65	.25	.40		
GROUP III	7.85	.25	.40		
GROUP IV	7.85	.25	.40		
LABORERS (AREA II)					
Okmulgee County					
GROUP I	8.15	.25	.40		
GROUP II	8.45	.25	.40		
GROUP III	8.55	.25	.40		
GROUP IV	9.00	.25	.40		

LABORERS CLASSIFICAION DEFINITIONS

GROUP I
All digging and dirt work, firing of salamanders and smudge pots; loading & unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures; cleaning when the man is directly tenders; and common laborers

GROUP II
All machine tool operators; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher laborer; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar & plaster mixing machine, pump-crete machines, and gunite mixing machines, including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials, when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale man on batch plants; all laborers screening snad, running sand drier, and feeding operating sand blaster, except nozzle; signalmen and cutting torch operators in connection with laborers work; concrete grader

GROUP III
Wagon drill operator

GROUP IV
Powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction					
Lineman	10.60		3%		½%
Cable splicers	11.29		3%		½%
Hole digger operator	9.62		3%		½%
Heavy equipment operator (pole or cat equivalent)	9.62		3%		½%
Jack hammerman	7.93		3%		½%
Line truck (winch operator)	8.71		3%		½%
Powderman	9.62		3%		½%
Groundman	7.07		3%		½%
Truck driver (flat bed ton and half and under)	7.55		3%		½%
Marble, Tile & Terrazzo Workers	10.97	.70	.40		
Painters (Okmulgee):					
Brush	10.90		.40		.10
Highwork and stage	11.30		.40		.10
Spray and sandblasting	11.55		.40		.10
Hot or bituminous	12.20		.40		.10
Sheetrock hand tools	10.90		.40		.10
Sheetrock power tools	11.55		.40		.10
Painters (Adair, Muskogee & Cherokee Counties):					
Brush painting & roller	9.70		.40	.20	.07
Highwork & Stage	10.30		.40	.20	.07
Sandblasting & Spray	10.55		.40	.20	.07
Hot or Bituminous	11.20		.40	.20	.07
Plumbers & Pipefitters	12.80	.60	1.10		.20
Plasterers	10.15				
POWER EQUIPMENT OPERATORS:					
GROUP I	12.55	.70	.50		.12
GROUP II	12.05	.70	.50		.12
GROUP III	11.55	.70	.50		.12
GROUP IV	11.30	.70	.50		.12
GROUP V	12.05	.70	.50		.12
GROUP VI	10.80	.70	.50		.12
GROUP VII	10.55	.70	.50		.12
GROUP VIII	9.55	.70	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I - All crane type equipment with 300' of boom or over (including jib)

GROUP II - All crane type equipment with 100-200' of boom (including jib)

GROUP III - All crane type equipment with 100-200' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more

GROUP IV - Sideboom (booms 30' and over); Guy Derrick

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP V

Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant op.; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' & longer mast); motor patrol (blade)

GROUP VI

Fork lift (35' & over); dozer (engine h.p. 65 or over); Fordson tractor or like quipment with hoe or loader equipment or ditcher; scraper type equipment; loader op. of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail boom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type

GROUP VII

Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with a Frame; roller, all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed op.; concrete pump; form grader; screening plant; well point pump op.; signal man on large whirleys when & if required; operator for rotary drilling machines when operated from console or machines

GROUP VIII

Permanent elevator-building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. & under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer op.; fuelman; truck crane oiler driver or crane oiler; conveyor op.-single-continuous belt bulk handling; asphalt lay machine back end man;

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ROOFERS	$10.40	.60	.25		.04
SHEET METAL WORKERS	12.06	.60	.66		.10
SPRINKLER FITTERS	12.79	.75	1.05		.08
TERRAZZO WORKERS FINISHER	9.01	.70			
TERRAZZO WORKERS FLOOR OP.	9.14	.70			
TERRAZZO WORKERS BASE MACHINE OPERATOR	9.38	.70			
TRUCK DRIVERS:					
GROUP I	8.03				
GROUP II	8.13				
GROUP III	8.23				
GROUP IV	8.18				
GROUP V	8.33				

TRUCK DRIVERS CLASSIFICATION DEFINITION

GROUP I
Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses.

GROUP II
3 tons or 4 yards and up to but not including 4 tons or 6 yds.

GROUP III
5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment; tractor trialer drivers and similar equipment, such as tractors, ten wheelers

GROUP IV
Ready-mix concrete trucks up to but not including 3 yards

GROUP V
Ready-mix concrete trucks 3 yards and over

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a--1st 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate.
b--Paid Holidays - A through G

PAID HOLIDAYS:
A-New Years Day; B-Memorial Day; C-Indepedence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving Day; G-Christmas Day

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii).

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: McIntosh
DECISION NO. OK79-4100 DATE: Date of Publication
Supersedes Decision No. OK78-4058 dated June 16, 1978 in 43FR 26258
DESCRIPTION OF WORK: Building projects (excluding single family homes and apartments up to and incluking 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.60	.55	.85		.015
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS-STONEMASONS	10.25	.45	.40		.05
CARPENTERS (Northern half of county).					
Carpenters	9.53	.55	.75		.08
Millwrights-Piledrivermen	10.03	.55	.75		.08
CARPENTERS (Southern half of county).					
Carpenters	8.00	.45	.40		
Millwrights-Piledrivermen	8.80	.45	.40		
CEMENT MASON	9.90				
ELECTRICIANS:					
ZONE I - A 20 mile radius from Post Office of City Muskogee					
ZONE II -Area outside Zone I					
Zone I					
Electricians	11.70	.60	3%		½%
Cable splicers	12.10	.60	3%		½%
Zone II					
Electricians	12.10	.60	3%		½%
Cable splicers	12.95	.60	3%		½%
ELEVATOR CONSTRUCTORS	10.81	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (Probationary 6 mos)	50%JR				
GLAZIERS	10.49	.70	.30		.01
IRONWORKERS	11.30	.75	.65		.12
LABORERS:					
GROUP I	7.35	.25	.40		
GROUP II	7.65	.25	.40		
GROUP III	7.85	.25	.40		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I

All digging and dirt work, firing of salamanders and smudge pots; loading and unloading of materials and equipment; loading and unloading of materials to and from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel cement and distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures, cleaning and clearing of debris; loading and unloading of materials, hoist or cages, except when the man is directly tending lathers, masons or plasterers; water boys, when used, carpenter tenders; and common laborers.

GROUP II

All machine tool operators, all sewer and drain tile layers and handline at the ditch, excluding distribution; operators of water pumps up to four inches and slip form jacks; men erecting scaffolds and directly tending lathers, masons, cement masons and plasterers, mortar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher helper; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping treating and wrapping, including all men working with dope; mortar and plaster mixing machine, pump-crete machines, and gunnite mixing machines, including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale men on batch plants; all laborers screening sand, running sand drier, and feeding operating sand blaster, except nozzle; signal men and cutting torch operators in connection with laborers' work; concrete grader.

GROUP III

Wagon drill operator and powdermen or blaster.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	10.15				.01
LINE CONSTRUCTION					
Linemen	10.60		3%		½%
Cable splicers	11.29		3%		½%
Hole digger operator	9.62		3%		½%
Heavy equipment operator (or Pole cat equivalent)	9.62		3%		½%
Line truck driver (winch operator)	8.71		3%		½%
Jack hammerman	7.93		3%		½%
Powderman	9.62		3%		½%
Groundman	7.07		3%		½%
Truck driver (flat bed, ton and half and under)	7.55		3%		½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
PAINTERS:					
Brush & roller	$ 9.70		.40	.20	.07
High work & stage	10.30		.40	.20	.07
Sandblasting	10.55		.40	.20	.07
Spray painting	10.55		.40	.20	.07
Hot or bituminous	11.20		.40	.20	.07
Sheet rock power tools	10.30		.40	.20	.07
POWER EQUIPMENT OPERATORS:					
GROUP I	12.55	.70	.50		.12
GROUP II	12.05	.70	.50		.12
GROUP III	11.55	.70	.50		.12
GROUP IV	11.30	.70	.50		.12
GROUP V	12.05	.70	.50		.12
GROUP VI	10.80	.70	.50		.12
GROUP VII	10.55	.70	.50		.12
GROUP VIII	9.55	.70	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I

All crane type equipment with 300' of boom or over (including jib)

GROUP II

All crane type equipment with 100-200' of boom (including jib)

GROUP III

All crane type equipment with 100-200' of boom(including jib), all tower cranes and all crane type equipment of 3 cu.yd. or more

GROUP IV

Sideboom (booms 30' and over); Guy Derrick

GROUP V

Heavy duty mechanic; welder; crane-hook and overhead monorail; whirley; panel board batch plant op.; piledriver engineer; dragline; shovel; clamshell; backhoe (3/4 yd. & over); gradall; hydro crane; cherry picker; hoists while operating 2 or more drums; hoists while doing stack and chimney work (1 or 2 drums); power driven hole digger (with 30' & longer mast); motor patrol (blade)

GROUP VI

Fork lift (35' & over); dozer (engine h.p. 65 or over); Fordson tractor or like quipment with hoe or loader equipment or ditcher; scraper type equipment; loader op. of hi-lift (engine h.p. 65 or over); asphalt lay machine; tail toom; conveyor-multiple, panel board control; power driven hole digger with less than 30' mast; trenching machine; concrete pump - boom type

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII
Locomotive engineer; boring machine; tug boat; mixer, 18 cu. ft. and over; sand barge; dredging machine; tugger; hoist-when operating one drum; welding machine, 3 to 6; air compressor, 3 to 5, 500 cu. ft. and under; air compressor, over 500 cu. ft. (1); pumps, battery, 3 to 6; fork-lift, bobcat and similar equipment; generator plant engineers, Diesel elec.; winch truck with a Frame; roller, all types; outside elevator or building type of personnel hoist; concrete buster or tamper; heaters under jurisdiction of operating engineers; fireman; boiler operator; crushing plants; oiler distributor; pulvimixer; farmer tractor with or without attachments; batch plant operator (portable); conveyor operator-duel, continuous or belt bulk handling; screed op.; concrete pump; form grader; screening plant; well point pump op.; signal man on large whirleys when & if required; operator for rotary drilling machines when operated from console or machines

GROUP VIII
Permanent elevator-building type (automatic); concrete mixer, with hopper less than 18 cu. ft.; air compressor, 500 cu. ft. & under (1 or 2); welding machine (1 or 2); pump (1 or 2); greaser; tilt top trailer op.; fuelman; truck crane oiler driver or crane oiler; conveyor op.-single-continuous belt bulk handling; asphalt lay machine back end man;

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS-STEAMFITTERS	12.80	.60	1.10		.20
ROOFERS	10.40	.60	.25		.04
SHEET METAL WORKERS	12.06	.60	.66		.10
SPRINKLER FITTERS	12.79	.75	1.05		.08
TERRAZZO WORKERS	10.97	.70	.40		
TERRAZZO WORKERS FINISHERS	9.01	.70			
TERRAZZO WORKERS FLOOR MACHINE OPERATORS	9.14	.70			
TERRAZZO WORKERS BASE MACHINE OPERATORS	9.38	.70			
TILE LAYERS	10.97	.70	.40		
TRUCK DRIVERS:					
Group I	8.03				
Group II	8.13				
Group III	8.23				
Group IV	8.18				
Group V	8.33				

[FR Doc. 79-35877 Filed 11-21-79; 8:45 am]
BILLING CODE 4510-27-C

TRUCK DRIVERS CLASSIFICATION DEFINITION

GROUP I
Pick-up, 1½ tons or 2½ yards and up to but not including 3 tons or 4 yards, such as dump trucks, flat beds, stake bodies and buses.

GROUP II
3 tons or 4 yards and up to but not including 4 tons or 6 yards

GROUP III
5 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, Mississippi wagons, semi-dumps, turner pulls, or other heavy material moving equipment; tractor trailer drivers and similar equipment, such as tractors, ten wheelers

GROUP IV
Ready-mix concrete trucks up to but not including 3 yards

GROUP V
Ready-mix concrete trucks 3 yards and over

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. -6%; over 5 yrs. - 8% of basic hourly rates
b - Paid Holidays

PAID HOLIDAYS:
A - New Years' Day; B - Memorial Day; C - Independence Day; D - Labor Day; E- Thanksgiving Day; F - Day after Thanksgiving Day; G - Christmas Day

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (ii).

federal register

Friday
November 23, 1979

Part III

Department of Energy

Proposed Procurement Regulations

DEPARTMENT OF ENERGY

41 CFR Parts 9-1, 9-3, 9-16, 9-50

Proposed Procurement Regulations

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The proposed rule would revise the Department of Energy Procurement Regulations (DOE-PR) to incorporate the requirements of Pub. L. 95-507, Amendments to the Small Business Act and Small Business Investment Act of 1951, the Office of Federal Procurement Policy's (OFFP) April 20, 1979 implementation of Pub. L. 95-507 (44 FR 23610) as modified on June 18, 1979 (44 FR 35068), and FPR Temporary Regulation 50 (44 FR 38748). Other minor changes are also made.

DATE: Comments must be received on or before December 24, 1979.

ADDRESS: Comments should be addressed to Mr. Ed Lovett, U.S. Department of Energy, Procurement and Contracts Management Directorate, Procurement Policy Branch, PR-211, Room 308RB, 400 1st St N.W., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Edward Lovett, Procurement Policy Branch (PR-211), Policy and Procedures Division, Procurement and Contracts Management Directorate, Department of Energy, 400 1st Street NW., Washington, D.C. 20585, Room 308RB, Telephone (202) 376-1759.

Lester Schiefelbein, Jr., AGC for Procurement, Office of General Counsel, Department of Energy, Washington, DC 29585, Telephone (292) 252-6902.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Statutory and Regulatory Requirements.

I. Background

Under Section 644 of the Department of Energy Organization Act (hereinafter referred to as the Act) (Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7254), the Secretary of the Department is authorized to prescribe such procedural rules and regulations, as he may deem necessary or appropriate, to effectuate the functions vested in him. Accordingly, the DOE-PR was promulgated with an effective date of June 30, 1979 (see 44 FR 34434). At the time of publication, the staffs of OFPP and the Federal Procurement Regulations were in the process of implementing Pub. L. 95-507. This necessitated reserving those subparts and sections of the DOE-PR dealing with Pub. L. 95-507. Those subparts and sections, together with other revisions of a minor nature, are now proposed for inclusion in the DOE-PR. It should also be noted that OFPP and Department of Energy are conducting a pilot test of the application of subcontracting incentives under Pub. L. 95-507.

II. Statutory and Regulatory Requirements

To the extent that Section 501 of the Department of Energy Organization Act (42 U.S.C. 7191) relating to the opportunity for oral presentation on proposed rules is applicable to the proposed rule, and paragraph 9 of DOE Order 2030.1 relating to a regulatory analysis, our preliminary view is that no substantial issue of fact or law exists and that this proposed rule is unlikely to have substantial impact on the Nation's economy, or large numbers of individuals or businesses.

This preliminary conclusion is based on the fact that the Department was previoulsy operating under Pub. L. 95-507, and this proposed rule would merely revise and formalize those existing procedures to be consistent with OFFPP's guidance, and FPR Temporary Regulation 50.

A final determination of whether there should be an opportunity for the presentation of oral views or if a regulatory analysis should be prepared will be made after an evaluation of the comments on the proposed regulation, and consideration of the views of those requesting an opportunity for oral presentation or preparation of a regulatory analysis.

Note.—The Department has determined that the regulation will not affect the quality of the environment, and that the requirements of Section 7 (c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, do not apply.

For the Department of Energy.

Dated: November 9, 1979.

Hilary J. Rauch,

Acting Director, Procurement and Contracts Management Directorate.

It is proposed to amend 41 CFR Chapter 9 as follows:

PART 9-1—GENERAL

1. By adding a new Subpart 9-1.7 to read as follows:

Subpart 9-1.7—Small Business Concerns

Sec.
9-1.700 General.
9-1.703.1 Certification.
9-1.704 Agency program direction and operation.
9-1.704-1 DOE headquarters.
9-1.704-2 Other procuring activities.
9-1.704-3 Small business/small disadvantaged business specialist.
9-1.705-3 Screening of procurements.
9-1.705-7 Performance of contract by SBA.
9-1.706 Procurement set-aside for small business.
9-1.706-1 General.
9-1.706-5 Total set-asides.
9-1.710 Subcontracting with small business concerns.
9-1.710-3 Required clauses.
9-1.710-5 Subcontracting certification.
9-1.750 Access to procurement information.
9-1.751 Small business set-aside—recurring procurements.

Subpart 9-1.7—Small Business Concerns

§9-1.700 General.

This subpart sets forth the policies for the utilization of small business concerns in DOE procurements. The policies and procedures prescribed in FPR 1-1.7 and this subpart apply to all DOE procurements.

§9-1.703.1 Certification.

The following certifications are to be used in procurements exceeding $10,000.

(a) The offeror ( ) contractor ( ) certifies that he is ( ) is not ( ) a small business concern as defined in accordance with Section 3 of the Small Business Act (15 U.S.C. 632).

(b) The offeror ( ) contractor ( ) certifies that he is a small business (as set forth in (a) above) and is ( ) is not ( ) owned and controlled by socially and economically disadvantaged individuals. Such a firm is defined as one—

(1) Which is at least 51 per centum owned by one or more such individuals or, in the case of a publicly owned business, at least 51 percentum of the stock is owned by such individuals.

(2) Whose management and daily business operations are controlled by one or more such individuals, and

(3) Which certifies concerning said ownership and control in accordance with paragraph (c) of this section.

(c) The offeror ( ) contractor ( ) certifies that he is ( ) is not ( ) a minority individual(s) in accordance with paragraph (c)(1) of this section or that he is ( ) is not ( ) socially and economically disadvantaged in accordance with paragraph (c)(2) or (c)(3) of this section. Social and economically disadvantaged individuals are defined as:

(1) United States citizens who are Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans or other specified minorites;

(2) Any other individual found to be disadvantaged pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637); or

(3) Any other individual defined as socially and economically disadvantaged, for purposes relating to other sections of the Small Business Act.

Failure to execute all parts of the representation will be deemed a minor informality and the bidder or offeror shall be permitted to satisfy the requirement prior to award.

§ 9-1.704 Agency program direction and operation.

§ 9-1.704-1 DOE headquarters.

The Director of Small and Disadvantaged Business Utilization, Headquarters, is responsible for the administration of the DOE small and small disadvantaged business programs. This includes responsibility for developing, implementing, executing, and managing these programs, providing advice on these programs, and representing DOE before other Government agencies on matters primarily affecting small and small disavantaged businesses.

§ 9-1.704-2 Other procuring activities.

(a) The Head of the Procuring Activity or designee, with the advice and consent of the Director of Small and Disadvantaged Business Utilization (SDBU), shall appoint a small business/small disadvantaged business (SB/DB) specialist.

(b) The specialist will serve as SB/DB coordinator for the activity to provide a central point of contact to which small business and small disadvantaged business and Labor Surplus Area (LSA) concerns may direct inquiries concerning participation in the procurement program. The Director, SDBU, Headquarters will provide the SB/DB specialist with advice and technical assistance, as necessary. The SB/DB specialist shall also perform such other functions as specifically directed by this Subpart and any additional functions required to implement the SB/DB programs. A copy of each appointment and termination of appointment of SB/DB specialists shall be forwarded to the Director, SDBU, Headquarters.

§ 9-1.704-3 Small business/small disadvantaged business specialist.

The SB/DB specialist shall perform the following duties:

(a) Manage a program designed to locate capable SB/DB sources for current and future procurements, through SBA or other methods.

(b) Describe to SB/DB concerns, program areas which may offer potential contracting opportunities.

(c) Prior to issuance of solicitations in excess of $10,000, determine that SB/DB/LSA concerns will receive adequate consideration, including initiation of set-asides or 8(a) contracting procedures, where appropriate, in accordance with 9-1.705-3.

(d) Review procurement programs for possible breakout of items suitable for procurement from SB/DB concerns.

(e) Advise SB/DB concerns with respect to the financial assistance available under existing law and regulation and assure that requests by SB/DB concerns for proper assistance are not treated as a handicap in securing the award of contracts.

(f) Assure that participation of SB/DB/LSA concerns is accurately reported.

(g) Make available to SBA copies of solicitations when so requested.

(h) Act as liaison between the contracting officer and SBA field offices and representatives in connection with set-asides, certificates of competency, and other matters in which the SB/DB program may be involved. Procurements estimated to cost $100,000, or more, in which Certificates of Competency are requested, shall be reported to the Director, SDBU, Headquarters, or designee. The report shall contain a description of the requirement, a list of the bidders or proposers, and the contract prices specified in the bids or proposals submitted and the reason for the proposed rejection of an otherwise acceptable small business bid or proposal.

(i) In cooperation with the contracting officer and technical personnel, seek and develop information on the technical competence of small business concerns for research and development contracts. Regularly bring to the attention of the contracting officers and technical personnel descriptive data, brochures, and other information on small and small disadvantaged business concerns that are apparently competent to perform research and development work in fields in which DOE is interested.

(j) Where appropriate, participate on Contractor Procurement System Reviews (CPSR) to review socioeconomic performance. Review and maintain copies of CPSR reports on major DOE prime contracts.

§ 9-1.705-3 Screening of procurements.

(a) *Individual set-asides.* The Department has established a comprehensive review and screening process encompassing procurement actions (excluding those specified) for small, small disadvantaged business concerns and labor surplus area concerns (see § 9-16.804).

(b) *Initiation of Class Set-Asides.* (1) Class Set-Asides. By agreement with SBA, DOE has established a class set-aside for procurements of construction whose estimated value is from $10,000 through $2 million including new construction and repair and alteration of structures. Lists of other class set-asides shall be maintained by procuring offices, including Government-owned, contractor-operated sites; and updated at least annually.

(2) In establishing and reviewing small business class set-asides, consideration shall be given to contracting with SBA pursuant to FPR 1-1.705-7 as well as the set-aside priorities in FPR 1-1.706-1. List of class set-asides maintained at procuring activities shall identify corresponding priorities.

§ 9-1.705-7 Performance of contract by SBA.

(a) Full consideration will be given to contracting with SBA in order to foster or assist in the establishment or growth of SBA designated socially and economically disadvantaged small business concerns.

(b) The Small Business Administration has delegated to its field offices authority to negotiate contracts and subcontracts under Section 8(a) of the Small Business Act. Heads of procuring activities or designess should assure full cooperation with SBA in efforts to place procurements with firms which are eligible for subcontract awards by SBA under Section 8(a). They shall take the necessary steps to:

(1) Invite appropiate SBA field representatives to indentify needs for 8(a) contracts and to provide for cooperation and assistance on the part of DOE in verifying the availability or nonavailibility of requirements, funding and other pertinent factors; and,

(2) Propose any requirements which appear to offer potential opportunity for contracting with SBA under the authority of Section 8(a) of the Small Business Act, for consideration by appropriate SBA field representatives.

(3) Work out detailed arrangements for individual 8(a) contracts with SBA offices, consistent with FPR 1-1.712. Any problems relating to contracting with the Small Business Administration should be reported to the Director, SDBU, Headquarters.

(4) Once a product or service has been procured successfully from the SBA, all future requirements for the same or substantially the same product or service will be automatically reserved for procurement form SBA.

This procedure will be followed unless the Contracting Officer determines, for an individual procurement, that there is no reasonable expectation that the SBA will provide the Government a satisfactory product or service delivered within stated time requirements at a fair

and reasonable price. Permanent withdrawal of a product or service from this procedure must be concurred in by the SB/DB specialist. A list shall be maintained by the SB/DB specialist of recurring procurements subject to this subpart.

§ 9-1.706 Procurement set-aside for small business

§ 9-1.706-1 General.

(a) Procurements under $10,000 awarded through small purchase procedures, are set-aside for small business. (See § 9-3.603-1)

(b) In addition to paragraph (a) of this section, Contracting Officers are authorized to seek set-asides for all susceptible procurements including architectural and engineering services, research, development, test and evaluation.

§ 9-1.706-5 Total set-asides.

It is DOE policy to use the preferred method of procurement known as "small business restricted advertising" for contracts involving total set-asides unless there are circumstances which make conventional negotiation necessary.

§ 9-1.710 Subcontracting with small business concerns.

(a) Procuring activities shall maintain lists of active prime contracts containing the clause entitled "Subcontracting Plan for Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals."

(b) SB/DB specialists shall monitor prime contractors' subcontracting programs and shall, insofar as practicable participate in on-site small business subcontracting reviews. In the event deficiencies are noted, SB/DB specialists shall recommend remedial action to the cognizant Contracting Officer.

§ 9-1.710-3 Required clauses.

(a) On April 20, 1979, the Office of Federal Procurement Policy (OFPP) issued, in the **Federal Register** (44 FR 23610), its implementation of Section 211 of Pub. L. 95-507. This issuance as modified on June 18, 1979, (44 FR 35068) contains various subcontracting provisions and guidance for their use. FPR Temporary Regulation 50 (44 FR 38478) requires the use of OFPP's clauses and procedures.

(b) In lieu of the clauses set forth in FPR 1-1.710-3(a) and 1-1.1310-2(a), the OFPP clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" is to be used under the conditions specified in Part A of the April 20, 1979 issuance.

(c) In lieu of the clauses set forth in FPR 1-1.710-3(b) and 1-1.1310-2(b), the OFPP clauses relating to the requirements for small business and small disadvantaged business subcontracting plans are to be used under the conditions specified in Parts C and E of the April 20, 1979 issuance.

(d) DOE activities shall not utilize Part D, "Incentive Subcontracting Program," of OFPP's April 20, 1979, issuance without prior approval of the Senior Procurement Official, Headquarters or his designee.

(e) The following contract clause is to be included in formally advertised and negotiated procurements when there is a requirement for a small and small disadvantaged business subcontracting plan. Contracting Officers may modify this clause to specify the forms on which quarterly reports are to be submitted.

Subcontracting Plan for Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals.

(a) The contractor agrees to comply in good faith with the Small and Small Disadvantaged Business Concerns Subcontracting Plan which is hereby incorporated in and made a part of this contract. In this connection, the contractor shall:

(1) Use his best efforts to attain such percentage goals as may be set forth in the plan.

(2) Designate an individual who will: (i) Maintain liaison with the Government on matters relating to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; (ii) monitor compliance with the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals"; and (iii) administer the contractor's plan.

(3) Provide adequate and timely consideration of the potentialities of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals in all "Make-or-buy" decisions.

(4) Assure that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals will, consistent with efficient performance of the contract, have the maximum practicable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of such concerns. Where the Contractor's lists of potential subcontractors which are small business and small business concerns owned and controlled by socially and economically disadvantaged individuals are excessively long, reasonable effort shall be made to give all such concerns an opportunity to compete over a period of time.

(5) Maintain records showing: (i) Whether each prospective subcontractor is a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals; (ii) procedures which have been adopted to comply with the plan and the policies set forth in this clause; (iii) with respect to the letting of any subcontract (including purchase orders) exceeding $10,000 information substantially as follows:

(A) Whether the award went to large business, small business, or small business owned and controlled by socially and economically disadvantaged individuals.

(B) Whether small business concerns or small business concerns owned and controlled by socially and economically disadvantaged individuals were solicited.

(C) The reason for nonsolicitation of small business concerns or small business concerns owned and controlled by socially and economically disadvantaged individuals if such was the case.

(D) The reason for failure of small business concerns or small business concerns owned and controlled by socially and economically disadvantaged individuals to receive the award if such was the case when such firms were solicited.

The records maintained in accordance with (5)(iii) above may be in such form as the contractor may determine, and the information shall be summarized quarterly and submitted by the purchasing department of each individual plant or division to the contractor's cognizant liaison officer for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. Such quarterly summaries will be considered to be management records only and need not be submitted routinely to the Government; however, records maintained pursuant to this clause will be kept available for review by the Government until the expiration of one year after the expiration of this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulation.

(6) Notify the Contracting Officer before soliciting bids, quotations, or proposals on any subcontract (including purchase orders) in excess of $10,000 if (i) no small business concern or small business concern owned and controlled by socially and economically disadvantaged individuals is to be solicited, and (ii) the Contracting Officer's consent to the subcontract (or ratification) is required by a "Subcontracts" clause in this contract. Such notification will state the contractor's reasons for nonsolicitation of small business and small business concerns owned and controlled by socially and economically disadvantaged individuals and will be given as early in the procurement cycle as possible so that the Contracting Officer may suggest potentially qualified small business concerns or small business concerns owned and controlled by socially and economically disadvantaged individuals. In no case will the procurement action be held up when to

do so would, in the Contractor's judgment, delay performance under the contract and the Contractor's notification shall specify that he is proceeding with the solicitation.

(7) Include the "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" in all subcontracts over $10,000 which offer further subcontracting opportunities.

(8) Cooperate in any studies or surveys of the Contractor's subcontracting procedures and practices as may be required by the DOE or the Small Business Administration.

(9) Submit quarterly reports of subcontracting to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals on such forms as may be specified elsewhere in this contract.

(b) The Contractor agrees that failure to comply in good faith with the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals," or the terms of the subcontracting plan incorporated into the contract will be a mateial breach of the contract and the contract may be terminated in whole or, in part, for default.

(c) The contractor further agrees to insert in all subcontracts hereunder (except those with small business concerns) which contain the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals," which offer further subcontracting opportunities, and which may exceed $1,000,000 in the case of a subcontract for the construction of any public facility or in excess of $500,000 in the case of all other subcontracts, provisions which shall conform substantially to the language of this clause, including this paragraph (c), and to notify the Contracting Officer of the names of such subcontractors.

(d) The provisions of this clause shall not apply to small business concerns.

§ 9-1.710-5 Subcontracting Certification.

The following certification shall be used in all contracts and modifications exceeding $500,000 or $1,000,000 if solely for construction of a public facility which contain the "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals."

(a) The offeror ( ) contractor ( ) represents that the following conditions prevail which determine whether the firm shall be required to submit a subcontracting plan for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals:

(1) He is ( ) a small business as defined in accordance with Section 3 of the Small Business Act (15 U.S.C. 632);

(2) Subcontracting possibilities are not ( ) offered with respect to this contract/modification;

(3) The contract/modification is not expected to exceed $1,000,000 (if solely for construction of a public facility) or $500,00 otherwise ( ).

(b) The offeror ( ) contractor ( ) represents that he is not ( ) required to submit plans for subcontracting with small and small disadvantaged businesses because he has properly executed one or more of the above representations.

(c) The offeror/contractor certifies that he will submit a Subcontracting Plan in accordance with the terms and conditions specified unless exempted by paragraph (a) of this section, and that he will require it of all appropriate subcontractors.

§ 9-1.750 Access to Procurement Information.

For any contract (except those which will be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico or which is for services which are personal in nature) to be let by the Department, any small business concern, upon its request, shall be provided:

(a) A copy of bid sets and specifications with respect to such contract;

(b) The name and telephone number of the Contracting Officer with respect to such contract; and

(c) Adequate citations to each major Federal law or Department rule with which such business concerns must comply in performing such contract.

§ 9-1.751 Small Business Set-Aside—Recurring Procurements.

Once a product or service has been procured sucessful on the basis of a total or partial small business set-aside, all future requirements for the same or substantially the same product or service will be automatically set aside for small business. This procedure will be followed unless the Contracting Officer determines, for an individual procurement, that there is no reasonable expectation that two or more small business concerns will submit acceptable offers to provide the Government a satisfactory product or service delivered within stated time requirements at a reasonable price. Permanent withdrawal of a product or service from this procedure must be concurred in the SB/DB specialist. A list shall be maintained by the SB/DB specialist of recurring procurements subject to this subpart.

2. By adding §§ 9-1.800, 9-1.804, and 9-1.805 and by revising § 9-1.807 to read as follows:

Subpart 9-1.8—Labor Surplus Area Concerns

§ 9-1.800 General.

(a) This subpart sets forth the policies for the utilization of surplus area (LSA) concerns in DOE procurements.

(b) Procurement actions shall be reviewed for potential labor surplus area set-aside consideration in accordance with § 9-1.705-3.

§ 9-1.804 Total Set-Asides.

It is DOE policy to use the preferred method of procurement known as "labor surplus area restricted advertising" for contracts involving total set-asides unless there are circumstances which make conventional negotiation necessary.

§ 9-1.805 Subcontracting with Labor Surplus Area Concerns.

(a) DOE encourages prime contractors to plan subcontracts, including purchase orders, with labor surplus area concerns. Heads of Procuring Activities or designees shall appoint SB/DB specialists under their jurisdiction to serve as liaison officers who will administer the labor surplus area program. (See § 9-1.704-3).

(b) Heads of Procuring Activities shall maintain lists of active prime contracts of $500,000 or more which contain the Labor Surplus Area Subcontracting Program Clause in FPR 1-1.805-3(b). Lists shall contain:

(1) The title, address, and telephone number of the prime contractor's liaison office.

(2) Contract estimated value.

(3) Period of performance.

(4) Nature of the work to be performed.

(5) Contract number.

§ 9-1.807 Records and Reports.

Records and reports shall be as required by "A Guide to Preparation of DOE Quarterly Procurement and Financial Assistance Reports."

3. By adding a new subpart 9-1.13 to read as follows:

Subpart 9-1.13 Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals.

Sec.

9-1.1300 Scope of subpart.
9-1.1310 Subcontracting with small disadvantage business concerns.

Subpart 9-1.13—Small Business Concerns Owned and Controlled by Socially and Economically disadvantaged Individuals

§ 9-1.1300 Scope of subpart.

This subpart implements and supplements the policies applicable to the participation of Small Disadvantaged Business Concerns in Government procurement, at the prime and subcontract level, as set forth in FPR Subpart 1-1.13.

§ 9-1.1310 Subcontracting with small disadvantaged business concerns.

See § 9-1.710 for guidance relative to subcontracting plans.

PART 9-3 PROCUREMENT BY NEGOTIATION

4. By adding a new § 9-3.603-2 to read as follows:

§ 9-3.603-2 Data to support small purchases.

The manner of securing quotations and the nature and extent of documentation to be required for small purchases shall be determined by Heads of Procuring Activities, but should be limited to a minimum consistent with the objective of reducing the cost of handling small purchases. Normally, confirmation of purchase orders issued after the material has been recieved should not be required unless such confirmation is requested by the supplier. Documentation can be accomplished by the purchaser and receiver endorsing the invoice. Contracting Officers shall include in the contract file an appropriate notation when award of small purchases is made to other than a small business.

PART 9-16—PROCUREMENT FORMS

5. By revising § 9-16.804-4 to read as follows:

§ 9-16.804-4 Small business/labor surplus set-aside review.

(a) *Use of DOE Form 415.* Procurement request originators at the Headquarters and Field Activities shall intitiate DOE Form 415, Small Business/Labor Surplus Set-Aside Review, with all procurement requests except:

(1) Procurements of $10,000 or less.

(2) Basic research contracts with educational institutions.

(3) Incremental funding, where there is no change in the scope of work.

(4) Unsolicited proposals.

(5) The exercise of options.

(b) *Preparation and Approval Procedures*—(1) *Responsibility for initiation of DOE Form 415.* All applicable procurement requests originating from Headquarter's organizations whether for procurement by Headquarters or Field Activities shall be accompanied by a completed DOE Form 415, initiated by Headquarter's program officials. All applicable procurement requests originating from field organizations shall be accompanied by a DOE Form 415 initiated by the Field Activity program officials.

(2) *Responsibility for screening/endorsing procurement requests.* The Director, SDBU shall screen/endorse all applicable procurement requests originating from Headquarters organizations for feasibility of small business/small disadvantaged business/labor surplus area (SB/DB/LSA) procurement action which are accompanied by a DOE Form 415. The cognizant field SB/DB specialist shall screen/endorse all applicable procurement request which are accompanied by a DOE form 415.

(c) *Requirements.* (1) The contracting officer shall review the recommendations and findings by procurement originators and SB/DB specialists, and make determinations in accordance with FPR 1-1.706.-1.

(2) If the contracting officer does not agree with the findings of the SB/DB specialist, the contracting officer shall notify the SB/DB specialist and promptly suspend procurement activity until a resolution of the disagreement is reached.

(3) After a review and endorsement of the findings and the form is signed and dated, the SB/DB specialist shall make the procurement documents available to the cognizant Small Business Adminstration procurement center representative (SBA/PCR).

(4) Upon award of the contract, one copy of the fully completed Form 415 shall be returned to the cognizant SB/DB specialist. In addition, when the award results from a small business set-aside, a copy of the abstract of bids, including the address and telephone number of the bidders, shall accompany the Form 415. In all other competitive actions, furnish the name, address and telephone number of the SB/DB firms that were in the competitive range.

PART 9-50—OPERATING AND ON-SITE SERVICE CONTRACTS

6. By adding a new § 9-50.104 to read as follows:

§ 9-50.104 Small Business and Small Disadvantaged Business Concerns. (FPR 1-1.7 and 1-1.13)

(a) The policies and procedures in the following regulations shall be applied to procurement activities of operating and on-site service contractors.

FPR	DOE-PR
1-1.703-1	9-1.706-5
1-1.703-2	9-1.710
1-1.706-5	9-1.710-3
1-1.706-6	
1-1.710-1	
1-1.710-2	
1-1.712-2	

(b) Protests received by contractors regarding small business status or questions concerning small disadvantaged businesses shall be referred to the SBA through the DOE contracting officer.

(c) Procurement of construction between $2,500 and $2 million, including new construction, and repair and alteration of structures, shall be set aside on a class basis for small business concerns. When, in the judgment of the contractor, a particular procurement falling within these dollar limits is determined to be unsuitable for a small business set-aside notification to SBA shall be made through the DOE contracting officer. Unless SBA appeals the decision (See FPR 1-1.706-2), the contractor shall proceed to process the procurement on an unrestricted basis. Small business set-aside preferences should be considered for construction procurements in excess of $2 million on a case-by-case basis, favoring such preferential participation of small business, whenever appropriate.

(d) Initiation of set-asides by contractors shall be made on a unilateral basis.

(e) Heads of Procuring Activities shall require operating and on-site service contractors to prepare quarterly reports on small business, small disadvantaged business, and contracts placed in labor surplus areas.

(f) To expand participation of small and small disadvantaged business sources in cost-type contractor procurement, Government owned plants and laboratories and other on-site service contractors shall publicize proposed actions of approximately $100,000 and above in accordance with FPR 1-1.1003-7.

PART 9-1—GENERAL

§ 9-1.5407 [Amended]

7. By amending § 9-1.5407 in paragraph (a) of the solicitation provision entitled "Organizational Conflicts of Interest Disclosure or Representation" by adding the following immediately after the word "advantage.": "The offeror may also provide relevant facts that show how its organizational structure and/or management systems limit its knowledge of possible organizational conflicts of interest relating to other

divisions or sections of the organization and how that structure or system would avoid or mitigate such organizational conflict."

PART 9-3—PROCUREMENT BY NEGOTIATION

8. By revoking and reserving paragraph (a) of § 9-3.404-50.

§ 9-3.404-50 Lump-sum contract for architect-engineer services with reimbursement for certain costs.

(a) [Reserved]

* * * * *

PART 9-50—OPERATING AND ON-SITE SERVICE CONTRACTS

§ 9-50.303 [Amended]

9. By amending paragraph (c)(1) of § 9-50.303 by adding the following immediately after the word "administrative,": "including environmental, safety, health and energy conservation program considerations,".

10. By adding paragraph (c)(2)(iv) to § 9-50.304 to read as follows:

§ 9-50.304 Field recommendations to extend or compete operating contracts and on-site service contracts.

* * * * *

(c) * * *

(2) * * *

(iv) A separate appraisal shall be made of the contractor's performance in assuring consideration of environmental, safety, health and energy conservation in the operation of the facility and development of products.

§ 9-50.1002-1 [Amended]

§ 9-50.1003-1 [Amended]

11. By amending §§ 9-50.1002-1and 9-50.1003-1 by deleting "$2,000" and substituting therefore "$25,000."

[FR Doc. 79-36211 Filed 11-21-79; 8:45 am]

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federal register

Friday
November 23, 1979

Part IV

Department of Energy

Economic Regulatory Administration

Applications for Assignment, Adjustment and Other Agency Actions; Notice to Aggrieved Persons

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 205

[Docket No. ERA-R-79-51]

Applications for Assignment, Adjustment and Other Agency Actions; Notice to Aggrieved Persons

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing a proposed rule which would require applicants for assignments, adjustments and certain other agency action to give notice of their applications to aggrieved persons.

DATES: Written comments by December 28, 1979 requests to speak by December 12, 1979, 4:30 p.m.; hearing date: December 20, 1979.

ADDRESSES: All comments to Public Hearing Management, Docket No. ERA-R-79-51, Department of Energy, Room 2313, 2000 M Street, NW., Washington, D.C. 20461. The hearing will be held in Room 2105, at the same location.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2214-B, 2000 M Street NW., Washington, D.C. 20461, (202) 254-5201

William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, (202) 634-2170

William E. Caldwell (Regulations & Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street NW., Washington, D.C. 20461, (202) 254-8034

Sue D. Sheridan (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6754

SUPPLEMENTAL INFORMATION:

I. Background.
II. Amendments Proposed.
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I. Background

Part 205 of the Department of Energy Regulations (10 CFR Part 205) sets forth the administrative procedures and sanctions which govern proceedings before the Department of Energy. Subpart B establishes the procedures for filing applications for adjustments. Subpart C sets forth the procedures for filing applications for assignments. Subpart G establishes procedures for filing applications, petitions or requests pertaining to certain other proceedings provided for under the DOE regulations.

In their current form, Subparts B and C contain notice provisions which require DOE to give notice of pending applications to aggrieved persons. Subpart G currently contains no notice requirements. The proposed rule would amend Subparts B, C and G to require applicants for adjustments, assignments and certain other proceedings to give notice of their applications to aggrieved persons and to certify to the DOE that such notice has been served. While an application may be filed prior to such certification, the application will not be perfected until certification is made. By requiring applicants to give notice to aggrieved parties, DOE's handling of applications will be expedited. Furthermore, we believe applicants are in many cases in a better position than DOE to determine who aggrieved parties are. Therefore, adoption of the proposed rule can be expected to facilitate the DOE's handling of applications, and to ensure that notice is given to all aggrieved parties.

II. Amendments Proposed

Section 205.2 of the Department of Energy Regulations defines "aggrieved" as describing a person with an interest sought to be protected under the Federal Energy Administration Act (FEAA), the Emergency Petroleum Allocation Act (EPAA), or Proclamation Number 3279, as amended, who is adversely affected by an order or interpretation issued by the DOE or a State Office. Section 205.23 of Subpart B, which governs applications for adjustments, requires the DOE to serve notice on any person readily identifiable by the DOE as one who will be aggrieved by the action requested. Section 205.33 of Subpart C contains a similar provision requiring DOE to notify readily identifiable persons who will be adversely affected by the requested assignment. Subpart G, which sets forth filing procedures for certain other applications, petitions, or requests under the DOE regulations contains no notice provisions.

The proposed rule would amend §§ 205.23 and 205.33 to require applicants for adjustments and assignments, rather than DOE, to notify aggrieved persons of pending applications (*see* discussion of relation between §§ 205.33 and 205.214 of Subpart Q, *infra*). The proposed rule would alter Subpart G by adding a notice provision requiring applicants in other proceedings before DOE which involve aggrieved persons to notify any aggrieved persons of the pending application. In each case, the notice provision set forth in the proposed rule would further require that the applicant inform such persons that they may within 15 days following service of notice submit comments regarding the application to the ERA office in which the application was filed. The proposed rule would require the applicant to include with his application to the ERA a certification that the above notice requirements have been met, and to include therein the date on which notice was served, and the names and addresses of each person notified.

If an applicant determines that compliance with the notice requirement would be impracticable, the proposed rule would require the applicant to provide notice to those persons whom it is reasonable and practicable to notify, and to include with the application a description of the persons or class of persons to whom notice was not sent. Should an applicant determine that compliance with the notice provision is impracticable, the proposed rule would permit DOE to require the applicant to provide alternative notice, or to determine that the notice requirement is not impracticable, or to determine that notice should be published in the **Federal Register.** In addition, the proposed rule would permit DOE to serve notice on any other person that written comments will be accepted if filed within 15 days.

The rule would require that aggrieved persons who submit written comments to DOE send the applicant a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f). Such persons shall include with their comments to DOE a certification that they have notified the applicant. The proposed rule would allow DOE to notify other persons participating in the proceeding of comments received by aggrieved parties, and to provide an opportunity for such persons to respond.

This rule would also amend § 205.214 of Subpart Q, which establishes notice procedures governing both applications for assignments under the state set-aside system and applications for allocation assignments by new end-users. With respect to set-aside applications, § 205.214(a) allows State Offices to notify aggrieved persons. As currently written, § 205.214(b) provides that applications for allocation assignments by new end-users shall be governed by the notice requirements of § 205.33 of Subpart C. It could be overly burdensome in some instances to impose the proposed new notice requirements of Subpart C on small end-users who apply for assignments under Subpart Q.

Therefore, we propose to consolidate paragraphs (a) and (b) of § 205.214 and

permit a State Office to notify aggrieved persons as to both types of applications.

III. Alternative Amendments

This notice of proposed rulemaking sets forth two alternative provisions for determining the date on which service of notice on an aggrieved person is complete. The first alternative, set forth in Appendix A of this proposal, adopts the notice provisions of § 205.7(c) of Chapter I. In current form, § 205.7(c) provides that service by registered or certified mail is complete upon mailing.

Under the second alternative, set forth in Appendix B, service is complete upon receipt. This alternative avoids a problem attendant to the adoption of § 205.7(c), whereby service is complete upon mailing. Since it is likely that some persons to whom an applicant mails notice will receive notice several days later than persons on faster mail delivery routes, adoption, of § 205.7(c) could result in a discrepancy between the amount of time available to various aggrieved persons for the submission of comments to DOE. In order to avoid that result, this proposal would amend § 205.7(c) by dividing it into two parts, §§ 205.7(c)(1) and 205.7(c)(2). Proposed paragraph (c)(1) would apply the current provisions of § 205.7(c) to all Subparts of Part 205 except Subparts B, C and G. Proposed paragraph (c)(2) would apply to Subparts B, C and G the presumption that service of notice on an aggrieved person is complete upon receipt, which would be presumed to occur on the tenth calendar day after mailing. Under this alternative, therefore, the fifteen (15) day period for submission of comments by an aggrieved person would run from the tenth through the twenty-fifth day after the date of mailing certified by the applicant.

In addition to these proposed alternatives, DOE is interested in receiving comments regarding the advisability of adopting a rule which would simply allow aggrieved persons to submit comments during a 25-day period following the date on which notice was mailed. Under this alternative, service would be deemed complete upon mailing.

IV. Procedural Requirements

A. *Section 404 of the DOE Act.* Puruant to the requirements of Section 404(a) of the DOE Act, we have referred this proposed rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. Following an opportunity to review this rule, the FERC has declined to determine that it may significantly affect any of its functions.

B. *Section 7 of the FEA Act.* Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. section 787 *et seq.*, Pub. L. 93–275 as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

A copy of the notice was sent to the EPA Administrator. The Administrator commented that he does not foresee these actions having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the ERA.

C. *National Environmental Policy Act.* It has been determined in accordance with DOE's proposed guidelines for compliance with NEPA (44 FR 42136, July 18, 1979), that this proposed rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

D. *Executive Order 12044.* Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to publish all proposed "significant" regulations for public comment for a minimum of 60 days. Section 2(e) of the Executive Order directs the agencies to establish criteria to identify which regulations are significant. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979). The DOE procedures explain that regulations are "significant" unless they are not expected to affect important policy concerns or to engage much public interest.

The proposed rule requiring applicants to give notice to aggrieved parties is procedural in nature, and does not touch on important policy concerns. Since it affects only applicants requesting certain types of agency action, it is not likely to generate much public interest. We find, therefore, that the proposed rule is not "significant" under DOE Order 2030 and therefore is not subject to E.O. 12044.

V. Written Comment and Public Hearing Procedures

A. You are invited to participate in this proceeding by submitting data, views, or arguments with respect to the matters contained in this notice. Comments should be submitted by December 28, 1979, to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Notice to Aggrieved Parties." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. *Public Hearing.* 1. *Procedure for Requests to Make Oral Presentation.* If you have any interest in the matters discussed in the notice, or represent a group or class of persons that has an interest, you may make a written request for an opportunity to make oral presentation by 4:30 p.m., e.s.t., on the date set forth in the "Dates" section of this notice. You should also provide a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m., e.s.t., December 14, 1979. You will be required to submit one hundred copies of your statement to the address for submission of statements indicated in the "Addresses" section of this notice, before 4:30 p.m., e.s.t., on the day before the hearing.

2. *Conduct of the hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. It will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. 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.

You may submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m., local time, on the day before the hearing. If you wish to have a question asked at the hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

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 the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA–152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase copies of the transcript of the hearing from the reporter.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. Section 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. Section 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. Section 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. Section 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, we propose to amend Part 205 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., November 13, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

Appendix A—Proposed Amendatory Language

1. Section 205.23 is revised to read as follows:

§ 205.23 Notice.

(a) The applicant shall provide a copy of the application and any subsequent amendments or other documents relating to the application, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to each person who is reasonably ascertainable by the applicant to be a person who will be aggrieved by the ERA action sought. The copy of the application shall be accompanied by a statement that the person may submit comments within 15 days of service regarding the application to the ERA office with which the application is to be filed. Service shall be made in accordance with § 205.7 of this Subpart. The application filed with the ERA is not complete until the applicant certifies to the ERA that it has complied with the requirements of this paragraph. Such certification shall include the names and addresses of each person to whom a copy of the application was sent and the dates on which such notice was served.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those aggrieved persons whom it is reasonable and practicable to notify; and

(2) Include with the application a description of the aggrieved persons of class or classes of aggrieved persons to whom notice was not sent, and the reasons why notice was not sent. The ERA may require the applicant to provide alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the Federal Register.

(c) The ERA shall serve notice on any other person readily identifiable by the ERA as one who will be aggrieved by the ERA action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 15 days of service of such notice.

(d) Any person submitting written comments to the ERA with respect to an application filed under this subpart shall also send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. The person shall certify to the ERA that he has complied with the requirements of this paragraph. The ERA may notify other interested persons of such comments and ERA may provide an opportunity for such persons to respond.

2. Section 205.33 is revised to read as follows:

§ 205.33 Notice.

(a) The applicant shall provide a copy of the application and any subsequent amendments or other documents relating to the application, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to each person who is reasonably ascertainable by the applicant to be a person who will be aggrieved by the ERA action sought. The copy of the application shall be accompanied by a statement that the person may submit comments within 15 days regarding the application to the ERA office with which the application is to be filed. Service shall be made in accordance with § 205.7 of this Subpart. The application filed with the ERA is not complete until the applicant certifies to the ERA that it has complied with the requirements of this paragraph. Such certification shall include the names and addresses of each person to whom a copy of the application was sent and the dates on which such notice was served.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those aggrieved persons whom it is reasonable and practicable to notify; and

(2) Include with the application a description of the aggrieved persons or class or classes of aggrieved persons to whom notice was not sent. The ERA may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the Federal Register.

(c) The ERA shall serve notice on any other person readily identifiable by the ERA as one who will be aggrieved by the ERA action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 15 days of service of such notice.

(d) Any person submitting written comments to the ERA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. The person shall certify to the ERA that he has complied with the requirements of this paragraph. The ERA may notify other interested persons of such comments and ERA may provide an opportunity for such persons to respond.

§§ 205.93—205.97 Redesignated as §§ 205.94—205.98

3. Part 205 is amended by renumbering §§ 205.93—205.97 as §§ 205.94—205.98 respectively and by adding a new § 205.93 to read as follows:

§ 205.93 Notice.

(a) The applicant shall provide a copy of the application and any subsequent amendments or other documents relating to the application, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to each person who is reasonably ascertainable by the applicant to be a person who will be aggrieved by the DOE action sought. In certain proceedings under this Subpart, there will be no potentially aggrieved persons. In such proceedings, the notice provisions of this Subsection shall not apply. Where notice is required, the copy of the application shall be accompanied by a statement that the person may submit comments within 15 days regarding the application to the DOE office with which the application is to be filed. Service shall be made in accordance with § 205.7 of this Subpart. In those proceedings under this Subpart which involve potentially aggrieved persons, the application filed with the DOE is not complete until the applicant certifies to the DOE that it has complied with the requirements of this paragraph. Such certification shall include the names and addresses of each person to whom a copy of the application was sent and the dates on which such notice was served.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those aggrieved persons whom it is reasonable and practicable to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was not sent. The DOE may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the **Federal Regiater.**

(c) The DOE shall serve notice on any other person readily identifiable by the DOE as one who will be aggrieved by the DOE action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 15 days of service of such notice.

(d) Any person submitting written comments to the DOE with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. The person shall certify to the DOE that he has complied with the requirements of this paragraph. The DOE may notify other interested persons of such comments and provide an opportunity for such persons to respond.

4. Section 205.214 is revised to read as follows:

§ 205.214 Notice.

With regard to an application for a set-aside order or for an assignment order, the State Office may notify any person that it determines will be aggrieved by an order that comments regarding the application will be accepted.

Appendix B—Alternative Proposed Amendatory Language

Section 205.7 is amended by revising paragraph (c) to read as follows:

§ 205.7 Service.

* * * * *

(c)(1) Except for Subparts B, C and G of Part 205 of this chapter, service by registered mail or certified mail is complete upon mailing. Official United States Postal Service receipts from such registered or certified mailing shall constitute prima facie evidence of service.

(2) With regard to Subparts B, C and G of Part 205 of this chapter, service by registered, certified or regular U.S. mail shall be complete upon receipt. Receipt shall be presumed to occur on the tenth calendar day after mailing.

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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
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DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
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DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
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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

COPYRIGHT ROYALTY TRIBUNAL

60726 10–22–79 / Cable royalty fees; filing of claims

FEDERAL COMMUNICATIONS COMMISSION

60741 10–22–79 / Ensuring the availability of certain compulsory radio equipment to the operator of the vessel's steering station in use

60740 10–22–79 / FM assignment; Brush, Colorado

60097 10–18–79 / FM broadcast station in Oakhurst, Calif., changes in table of assignments

60091 10–18–79 / Subscription television service provisions

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner—

61177 10–24–79 / Rental assistance payments; noninsured Section 236 projects; interim rule

Rules Going Into Effect Saturday, November 24, 1979

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

61546 10–25–79 / Fisherman's Protective Act implementation effective November 24, 1979

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing November 21, 1979

Slip Laws

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